

Exhibit G

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

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Debtors.
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14 VIDEOTAPED DEPOSITION OF MARY ALICE KORYCKI

15 New York, New York

16 February 4, 2010
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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 27495

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<p>1 M. Korycki</p> <p>2 THE VIDEOGRAPHER: Will the reporter</p> <p>3 please swear in the witness.</p> <p>4 * * *</p> <p>5 MARY ALICE KORYCKI, called as a</p> <p>6 witness, having been duly sworn by a Notary</p> <p>7 Public, was examined and testified as</p> <p>8 follows:</p> <p>9 EXAMINATION BY</p> <p>10 BY MR. THOMAS:</p> <p>11 Q. Good morning. Would you please state</p> <p>12 your full name and address for the record?</p> <p>13 A. Mary Alice Korycki. 1001 Madison</p> <p>14 Street, Apartment 517, Hoboken, New Jersey,</p> <p>15 07030.</p> <p>16 Q. Have you been deposed before?</p> <p>17 A. No.</p> <p>18 Q. Do you have a general understanding of</p> <p>19 how this process works? I'll be asking</p> <p>20 questions and the court reporter will be taking</p> <p>21 down the questions and answers and so forth.</p> <p>22 A. Yes.</p> <p>23 Q. And if at any point during the</p> <p>24 deposition you're not sure what I'm asking,</p> <p>25 please feel free to ask me to rephrase the</p>	<p>1 M. Korycki</p> <p>2 question. I'll try to make it clear.</p> <p>3 A. Okay.</p> <p>4 Q. And if at any point you want a break,</p> <p>5 just please let me know; we can do that.</p> <p>6 A. Okay.</p> <p>7 Q. Would you please briefly describe your</p> <p>8 professional background?</p> <p>9 A. I'm a certified public accountant and</p> <p>10 also a CIRA, Certified Insolvency Restructuring</p> <p>11 Advisor. I've had about eight years'</p> <p>12 restructuring experience, three years' auditing</p> <p>13 experience.</p> <p>14 Q. Okay. And what is your job now?</p> <p>15 A. I work in the Turnaround and</p> <p>16 Restructuring Group at Alvarez & Marsal.</p> <p>17 Q. And how many years have you been at</p> <p>18 Alvarez?</p> <p>19 A. Four and a half.</p> <p>20 Q. And where did you work prior to that?</p> <p>21 A. BDO Seidman.</p> <p>22 Q. And how long were you at BDO Seidman?</p> <p>23 A. Four years.</p> <p>24 Q. What did you do at BDO Seidman?</p> <p>25 A. I worked in their Turnaround Group</p>
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<p>1 M. Korycki</p> <p>2 also.</p> <p>3 Q. And can you describe briefly what type</p> <p>4 of work you did for their Turnaround Group?</p> <p>5 A. You mean at BDO?</p> <p>6 Q. Yes.</p> <p>7 A. Preparing cash flow, 13-week cash flow</p> <p>8 reports and doing some preference analysis work.</p> <p>9 Q. Prior to BDO, where did you work?</p> <p>10 A. PricewaterhouseCoopers.</p> <p>11 Q. How long there?</p> <p>12 A. About two years.</p> <p>13 Q. And what did you do for Price</p> <p>14 Waterhouse?</p> <p>15 A. I worked in their Auditing Group.</p> <p>16 Q. And prior to Price Waterhouse?</p> <p>17 A. I started out at Pannell Kerr Foster.</p> <p>18 Q. And how long were you there?</p> <p>19 A. One year.</p> <p>20 Q. And what did you do there?</p> <p>21 A. I worked in their Auditing Group as</p> <p>22 well.</p> <p>23 Q. And what academic degrees do you have?</p> <p>24 A. Bachelor's degree in accounting.</p> <p>25 Q. And are you a certified accountant?</p>	<p>1 M. Korycki</p> <p>2 A. I said I'm a -- I am a certified</p> <p>3 public accountant, but a non-practicing CPA now.</p> <p>4 Q. Okay.</p> <p>5 A. I just want to clarify --</p> <p>6 Q. Sure.</p> <p>7 A. -- from what I said earlier.</p> <p>8 Q. Sure. And please feel free to clarify</p> <p>9 things like that throughout the morning.</p> <p>10 A. Okay.</p> <p>11 Q. Would you describe in a little more</p> <p>12 detail your positions with Alvarez over the last</p> <p>13 four years or so?</p> <p>14 A. I worked on -- are you looking for the</p> <p>15 type of work that I've done?</p> <p>16 Q. The types of duties and</p> <p>17 responsibilities, your position, your title and</p> <p>18 the type of duties and responsibilities you did</p> <p>19 in that position.</p> <p>20 A. A senior associate at Alvarez &</p> <p>21 Marsal. So my duties include preparing cash</p> <p>22 flow, 13-week cash flow forecasts, working on --</p> <p>23 I'm just, I'm not sure how much, sorry, how much</p> <p>24 detail. What are you looking for?</p> <p>25 Q. So one of the things you've -- first</p>

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1 M. Korycki
2 of all, you've been a senior associate the
3 entire time at Alvarez?
4 A. No. I started out as an associate.
5 Q. Okay. And now you're currently a
6 senior associate?
7 A. Yes.
8 Q. And some of the types of things you've
9 worked on are cash flow forecasts; is that
10 right?
11 A. Yes.
12 Q. Are there other general types of work
13 or projects that you've done?
14 A. I've done accounting-related work,
15 monthly -- monthly close work, and also
16 forecasts, like five-year business models,
17 business plans.
18 Q. And when was your first involvement
19 with Lehman?
20 A. I started on September 22, 2009.
21 Q. Now, it's my understanding Alvarez &
22 Marsal became involved with Lehman earlier on
23 than that, the week of September 15th. Did you
24 not have any involvement that first week, the
25 week of September 15th, with Lehman?

1 M. Korycki
2 A. I did not have any involvement that
3 week, no.
4 Q. Okay. And how did you first become
5 involved in any work in connection with Lehman
6 Brothers? Did someone pick up the phone and
7 call you and tell you to get involved?
8 A. Someone, yes, received an e-mail that
9 said can you start working on Lehman.
10 Q. Okay. And what was your assignment or
11 scope of responsibility in connection with the
12 Lehman work?
13 A. I started out in the Wind-Down Group.
14 Q. What is the Wind-Down Group?
15 A. They handle some of the TSA work,
16 working with the Contracts Management Team, and
17 then also, in conjunction with, they handled
18 some of the Barclays transaction.
19 Q. And what is that, what do you mean
20 when you say "they handled some of the Barclays
21 transaction"?
22 A. What I mean by that is some of the
23 work that I had -- documents that I had
24 prepared. I wasn't actually involved in
25 everything that happened. I just know top-level

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1 M. Korycki
2 what -- that some people were involved with
3 that.
4 Q. Okay. But in terms of handling some
5 of the Barclays transaction, is that referring
6 to getting an understanding of the Barclays
7 transaction to make sure they understood what
8 assets had been transferred, what liabilities
9 had been transferred, and what assets and
10 liabilities had stayed with Lehman Brothers?
11 A. I wasn't directly involved with all
12 the people that dealt with that. I know I
13 came -- when I came on board, I just heard talk
14 about it. I don't know exactly everything that
15 went on with that.
16 Q. So you knew that people were working,
17 somehow in connection with the Barclays
18 transaction, some Alvarez & Marsal and people
19 were working with the Barclays transaction, but
20 you weren't sure exactly what they were doing?
21 A. Yes. Correct.
22 Q. And how did your assignment change, if
23 at all, after you started working in connection
24 with Lehman on the 22nd?
25 A. Can you --

1 M. Korycki
2 Q. Sure. I'm just looking for just a
3 general description of your role, your duties
4 and responsibilities in connection with the
5 Lehman assignment from September 22 going
6 forward. I mean, did you continue working with
7 the Wind-Down Group? Did you switch to another
8 group? Did you have another area of focus at
9 some later point in time?
10 A. Yes.
11 Q. Just a general overview at this point.
12 A. I worked in the Finance and Accounting
13 Group for a couple months and moved over to the
14 Derivatives Group.
15 Q. So you started off in the Wind-Down?
16 A. Yes.
17 Q. And then when did you move over to the
18 Finance and Accounting Group, approximately?
19 MR. TAMBE: Objection to form. I'm
20 not -- maybe she can clarify it, whether
21 there's a distinction between the Wind-Down
22 Group and the Finance and Accounting Group,
23 whether she's doing finance and accounting
24 for the Wind-Down Group. You may just want
25 to clear that up. I just don't know if

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<p>1 M. Korycki</p> <p>2 that's clear.</p> <p>3 MR. THOMAS: I asked her if she moved</p> <p>4 from the Wind-Down Group to the Finance and</p> <p>5 Accounting Group and she said yes.</p> <p>6 Q. So I'm just asking when that was.</p> <p>7 A. I want to say around June timeframe.</p> <p>8 I don't remember exactly, though.</p> <p>9 Q. That would be June of '09?</p> <p>10 A. June of '09, yes.</p> <p>11 Q. Did you want to expand?</p> <p>12 A. Can I just expand?</p> <p>13 MR. TAMBE: Yes. You can just explain</p> <p>14 if there is any connection between the</p> <p>15 Wind-Down Group and Finance and Accounting.</p> <p>16 It wasn't clear to me.</p> <p>17 THE WITNESS: They're separate groups.</p> <p>18 So it would be -- they're separate groups.</p> <p>19 Q. And then when did you move to the</p> <p>20 Derivatives Group?</p> <p>21 A. December '09.</p> <p>22 Q. And can you just describe in a little</p> <p>23 more detail your duties and responsibilities as</p> <p>24 part of the Wind-Down Group?</p> <p>25 A. I was responsible for the working</p>	<p>1 M. Korycki</p> <p>2 group list, working with the Contracts Team on</p> <p>3 the rejection, getting a handle on the</p> <p>4 rejection, the contracts to be rejected.</p> <p>5 Q. Anything else come to mind?</p> <p>6 A. That's all that comes to mind.</p> <p>7 Q. In the -- sorry. Go ahead.</p> <p>8 A. I also do the U.C.C. presentations.</p> <p>9 Q. What does that mean to say that you do</p> <p>10 the U.C.C. presentations?</p> <p>11 A. I collect the slides from each of the</p> <p>12 asset teams and compile them into one file for</p> <p>13 the Creditor Committee presentations. I don't</p> <p>14 actually prepare the slides. I just compile</p> <p>15 them and put them into a deck.</p> <p>16 Q. Okay. Have you made any presentations</p> <p>17 at those meetings?</p> <p>18 A. No.</p> <p>19 Q. Do you communicate with members of the</p> <p>20 Creditors Committee or their representatives?</p> <p>21 A. Via e-mail; sending a copy of the deck</p> <p>22 to them.</p> <p>23 Q. Okay. Other than that, do you have</p> <p>24 any more substantive communications with the</p> <p>25 Creditors Committee, or have you?</p>
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<p>1 M. Korycki</p> <p>2 A. I've had a few meetings early on with</p> <p>3 them. Nothing, nothing that I would consider --</p> <p>4 my involvement with them directly, no.</p> <p>5 Q. Let me go ahead and show you a</p> <p>6 document that we'll mark as 579A.</p> <p>7 (Exhibit 579A, a document bearing</p> <p>8 Bates Nos. AM4951, marked for</p> <p>9 identification, as of this date.)</p> <p>10 Q. Let me just ask you, have you seen</p> <p>11 this document before?</p> <p>12 A. Yes.</p> <p>13 Q. Can you describe what it is, please?</p> <p>14 A. These are my notes from a meeting that</p> <p>15 we had.</p> <p>16 Q. Okay. And there's a 9/19 date at the</p> <p>17 top. Would that have been the date of the</p> <p>18 meeting?</p> <p>19 A. I don't believe that was the date of</p> <p>20 the meeting, no.</p> <p>21 Q. Okay. Do you know the -- when this</p> <p>22 meeting occurred?</p> <p>23 A. Off the top of my head, no.</p> <p>24 Q. Do you know who the meeting was with?</p> <p>25 A. Jim Fogarty, Bill Gordon, I believe</p>	<p>1 M. Korycki</p> <p>2 Mike Fazio, Jim Sirris. There were a couple</p> <p>3 other people there. I don't remember, don't</p> <p>4 recall everyone who was there, though.</p> <p>5 Q. Would that be Jim Seery?</p> <p>6 A. Seera, I believe that's how you</p> <p>7 pronounce it, yes.</p> <p>8 Q. Who is a former Lehman executive?</p> <p>9 A. Oh, no.</p> <p>10 Q. Are you talking about somebody</p> <p>11 different?</p> <p>12 A. You know, I take that back. I</p> <p>13 don't -- there was some other -- I'm talking</p> <p>14 about someone else that wasn't a former Lehman</p> <p>15 executive. I don't recall his name off the top</p> <p>16 of my head.</p> <p>17 Q. Okay. Do you know where the person</p> <p>18 was from?</p> <p>19 A. I want to say it was an FTI person and</p> <p>20 there was a Houlihan person.</p> <p>21 Q. Is Mike Fazio the Houlihan person</p> <p>22 you're referring to?</p> <p>23 A. Yes.</p> <p>24 Q. So this was a meeting with people from</p> <p>25 Alvarez & Marsal and Houlihan and FTI, who were</p>

1 M. Korycki
2 both representatives of the Creditors Committee,
3 correct?
4 A. Correct.
5 I just want to clarify. There was a
6 lot going on in the early days, so I don't
7 recall every -- everyone's names. There was a
8 lot of people to meet.
9 Q. Sure. I understand.
10 I'm going to go ahead and show you
11 another set of notes while we're still talking
12 about these. I want to give it a little more
13 context.
14 Let me show you a document that's been
15 previously marked as 563B. And do you recognize
16 that document?
17 A. Yes.
18 Q. Now, are those your notes from a
19 meeting that occurred on September 29, 2008?
20 A. Yes.
21 Q. Okay. Do you know, the meeting that
22 is reflected in the notes, your first set of
23 notes, which is Exhibit 579A, do you know if the
24 meeting reflected in the 579A notes occurred
25 before or after the meeting, the 9/29 meeting?

1 M. Korycki
2 Q. What does the rest say there?
3 A. "Stipulate come back to court."
4 Q. Okay. And do you know what this is
5 referring to?
6 A. Again, I was just really just jotting
7 down things that people were saying.
8 Q. I understand, but just your -- I'm
9 just asking for your best recollection based
10 upon your notes and your recollection of the
11 meeting what -- what it is that's being
12 described there. We all take notes in shorthand
13 sometimes, so I'm just trying to understand what
14 it is you're conveying by writing down these
15 notes.
16 A. The transcript -- it was to get a
17 transcript of -- I believe there was a court
18 hearing, so to get a transcript of that court
19 hearing from Weil.
20 Q. Okay. And what was the purpose of
21 getting that transcript, as discussed in the
22 meeting?
23 A. Someone at the meeting had said, just,
24 I believe, just pointed -- made a comment to get
25 the transcript and I wrote it down as something

1 M. Korycki
2 A. I believe this 9/29 meeting occurred
3 first and then the 579A occurred second.
4 Q. Okay.
5 A. If I recall correctly.
6 Q. Okay. Do you believe they were
7 roughly close in time?
8 A. A couple weeks, yes.
9 Q. Within a couple weeks?
10 A. Within a couple weeks, yes.
11 Q. And as a general matter, did Alvarez &
12 Marsal try to share information it learned about
13 the transaction with the Creditors Committee and
14 their representatives?
15 MR. TAMBE: Objection to the form of
16 the question.
17 A. You know, I was just honestly taking
18 notes. I don't ...
19 Q. Okay. Let's look -- looking at 579,
20 please, which is the meeting with Houlihan and
21 FTI, at the top right-hand corner there's a box
22 that says "Transcript from Weil; Lori Fife;
23 Judge said." Then it says "preliminary order."
24 Am I reading that correctly so far?
25 A. Yes.

1 M. Korycki
2 to do.
3 Q. Okay. You have no recollection of the
4 purpose or point of getting the transcript?
5 A. No, I don't remember.
6 Q. Do you remember what -- was it telling
7 Alvarez to get the transcript?
8 A. Again, it came up in the meeting to
9 get a transcript of the hearing -- of the
10 hearing. I don't recall exactly.
11 Q. All right. And but do you know if it
12 was Alvarez telling FTI and Houlihan to get a
13 transcript or FTI or Houlihan telling Alvarez to
14 get a transcript?
15 A. I don't remember.
16 Q. The second enumerated point there in
17 that box says, "Source of market value 9/18."
18 Am I reading that correctly?
19 A. Yes.
20 Q. And what was the issue that was
21 discussed there?
22 A. I don't remember.
23 Q. Do you recall any discussion about
24 market values of securities in this meeting?
25 A. It was brought up. I don't remember

1 M. Korycki
2 anything in detail further than that.
3 Q. Point number 3 says, or does it say,
4 "Who else negotiating?"
5 A. That's what it says.
6 Q. And do you recall what that was in
7 reference to, what the issue was that was being
8 raised?
9 A. I don't remember.
10 Q. Do you recall, is that who else was
11 negotiating the Barclays transaction?
12 A. Again, I don't remember.
13 Q. Turning to the left side, do you see
14 where it says, "9/19." Then it says "47.4
15 collateral." Do you recall what the 47.4 number
16 that was discussed is?
17 A. I don't remember.
18 Q. Next line says, "Took 5 billion more
19 collateral." Do you see that?
20 A. Yes.
21 Q. Okay. What was the point that was
22 being discussed there?
23 A. I don't remember.
24 Q. Do you recall there being discussion
25 of the fact that the collateral being

1 M. Korycki
2 does it mean?
3 A. And I don't -- I don't remember.
4 Q. Do you understand it to be referring
5 in some way to the repo collateral that was
6 transferred to Barclays as part of the
7 transaction, or was supposed to be transferred?
8 MR. TAMBE: Objection to the form of
9 the question. Objection. Asked and
10 answered.
11 Q. You can answer. When he objects, you
12 can just -- he's just preserving it.
13 MR. TAMBE: I'm also objecting to the
14 fact that you've asked the question now
15 three times. She's told you she doesn't
16 remember.
17 MR. THOMAS: It's a different
18 question. Thank you.
19 A. Can you repeat the question again?
20 Q. Sure. Do you recall that the \$5
21 billion reference here right above "Schedule A"
22 relates to the repo collateral that was
23 transferred or supposed to be transferred to
24 Barclays as part of the Barclays transaction?
25 MR. TAMBE: Objection to form.

1 M. Korycki
2 transferred had a marked value 5 billion more
3 than it was being treated as worth in terms of
4 market value?
5 MR. TAMBE: Objection to the form of
6 the question.
7 A. Can you repeat that?
8 Q. Sure. Do you recall a discussion at
9 this meeting about the fact that the collateral
10 that was transferred to Barclays had a marked
11 value of approximately \$5 billion more than the
12 parties believed it was worth or were treating
13 it for purposes of the transaction?
14 MR. TAMBE: Objection to the form of
15 the question.
16 A. I don't recall. Again, I was just
17 taking notes. I don't ...
18 Q. But you were listening to the
19 conversation, correct?
20 A. Correct.
21 Q. Okay. And as we'll see, this issue
22 becomes reflected in other documents, other
23 notes, presentations, including the U.C.C.
24 presentation. So I'm asking you, what is your
25 recollection of that \$5 billion number and what

1 M. Korycki
2 Objection. Asked and answered.
3 A. Again, I was -- I was just taking
4 notes. I wasn't -- I don't -- I didn't
5 understand everything that was going on at the
6 time.
7 Q. Again, I'm not asking if you
8 understood everything going on at the time. Do
9 you understand that this was relating -- the \$5
10 billion related to the repo collateral that was
11 transferred or was supposed to be transferred to
12 Barclays as part of the Barclays transaction?
13 MR. TAMBE: Same objections.
14 A. I don't know if -- I don't know if
15 they're related.
16 Q. You don't have any understanding of
17 that as you sit here today?
18 A. No.
19 Q. Do you have an understanding what
20 Schedule A is that's being discussed in this
21 meeting that you wrote down?
22 A. These are -- these are my notes from
23 the meeting. I just, sitting in the meeting, I
24 was just jotting down what things are being
25 said, people are saying.

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<p>1 M. Korycki</p> <p>2 Q. Okay. Appreciating that, do you have</p> <p>3 an understanding of what Schedule A is here</p> <p>4 that's being referred to?</p> <p>5 A. I'm sorry, can you repeat that?</p> <p>6 Q. Yes. Do you have an understanding,</p> <p>7 any understanding at all, of what Schedule A is</p> <p>8 that you wrote down in your notes?</p> <p>9 A. Again, I was just taking notes at the</p> <p>10 meeting.</p> <p>11 Q. I will stipulate to the fact that you</p> <p>12 were taking notes to the meeting. I'm just</p> <p>13 asking, do you have any understanding what</p> <p>14 Schedule A is there, what it's referring to?</p> <p>15 A. Not in -- not in detail. A broad</p> <p>16 understanding, not in detail.</p> <p>17 Q. What is your general understanding of</p> <p>18 what Schedule A refers to?</p> <p>19 A. That the assets and liabilities, that</p> <p>20 was -- there was not -- it was not a -- the</p> <p>21 assets transferred to Barclays may have not been</p> <p>22 equal, that Barclays may have taken more than</p> <p>23 what -- how do I explain it? That there</p> <p>24 actually may have been a loss on the sales,</p> <p>25 really.</p>	<p>1 M. Korycki</p> <p>2 Q. That Barclays may have gotten \$5</p> <p>3 billion more of collateral than they were</p> <p>4 supposed to?</p> <p>5 A. That may. Again, I don't fully -- I</p> <p>6 don't understand everything that was going on.</p> <p>7 That may have been.</p> <p>8 Q. And do you understand Schedule A to be</p> <p>9 referring to the collateral that was transferred</p> <p>10 to Barclays in connection with the transaction?</p> <p>11 MR. SHELLEY: Objection.</p> <p>12 A. Again, this -- this is not my</p> <p>13 specialty. I just, I was taking notes on what</p> <p>14 was going on in the meeting.</p> <p>15 Q. Are you aware of any other Schedule A</p> <p>16 that this could be referring to?</p> <p>17 MR. TAMBE: Objection to the form of</p> <p>18 the question. Objection. Asked and</p> <p>19 answered. You've asked her for her</p> <p>20 recollection about that line four times.</p> <p>21 MR. THOMAS: Okay, you're -- just</p> <p>22 state your objection.</p> <p>23 MR. TAMBE: I've stated my objection,</p> <p>24 and she's answered that question any number</p> <p>25 of times.</p>
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<p>1 M. Korycki</p> <p>2 A. You're referring to the third line</p> <p>3 down, "Schedule A"?</p> <p>4 Q. Yes.</p> <p>5 A. I don't -- I don't recall what that</p> <p>6 refers to, no.</p> <p>7 Q. Further down, it says, "Bloomberg</p> <p>8 number of transactions; covered 85 percent in</p> <p>9 value." Am I reading that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. And what was the issue or significance</p> <p>12 of that statement?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you recall anyone at any time</p> <p>15 trying to identify the value of the repo</p> <p>16 collateral through public sources such as</p> <p>17 Bloomberg?</p> <p>18 A. I don't recall.</p> <p>19 Q. The next line, does that say, "Hard to</p> <p>20 value. Meeting -- mortgage-backed securities"?</p> <p>21 A. Yes.</p> <p>22 Q. And do you know what the issue was</p> <p>23 being discussed with respect to that?</p> <p>24 A. I don't remember.</p> <p>25 Q. The next line down says "52.4</p>	<p>1 M. Korycki</p> <p>2 billion." Do you know what that number refers</p> <p>3 to?</p> <p>4 A. I don't remember.</p> <p>5 Q. And below it, it says, in parentheses,</p> <p>6 "5," then "billion." Is that your way of</p> <p>7 indicating subtraction, the parentheses, 5</p> <p>8 billion?</p> <p>9 A. Yes.</p> <p>10 Q. And that adds up to -- totals \$47.4</p> <p>11 billion in collateral?</p> <p>12 A. That's what it says here, yes.</p> <p>13 Q. And is that the \$5 billion difference</p> <p>14 in valuation that's referred to earlier on in</p> <p>15 the document?</p> <p>16 MR. TAMBE: Objection to the form of</p> <p>17 the question.</p> <p>18 MR. SHELLEY: Objection.</p> <p>19 MR. TAMBE: Objection. Misstates her</p> <p>20 former testimony. Objection. It</p> <p>21 mischaracterizes the document.</p> <p>22 A. Again, I was just -- I don't know if</p> <p>23 the two are related.</p> <p>24 Q. No idea whether those two are related?</p> <p>25 A. No.</p>

M. Korycki

Q. Do you have any idea of why these figures were being discussed at this meeting?

A. No.

MR. MILLS: Objection to the form.

A. No. Again, I was just -- I was just taking notes.

Q. You're an accountant with a decade of background experience in this restructuring field, correct?

MR. TAMBE: Objection to the form of the question.

A. I'm a non-practicing accountant and I've had years of experience, just this is a different, different industry that I've never dealt with before.

Q. I understand, but you weren't a secretary coming in just to take dictation. This was part of a project and you were part of a team working on these issues, correct?

MR. TAMBE: Objection to the form.

A. I was part of a team, yes.

Q. And it's your testimony that, as you sit here today, you have no idea what these numbers in your notes refer to?

M. Korycki

A. I know that they refer to the Barclays transaction, but in -- what they all represent, no.

Q. Do you know what any of the numbers that we've covered so far represent, just generally?

A. I don't, I don't remember what they -- no.

Q. To the right of the 52.4 billion, it says, "7 to 8 billion JPM inventory." Am I reading that correct?

A. Yes.

Q. Do you know what that's referring to?

A. I don't remember.

Q. Below the 47.4 it says question mark, "45 or 45.5," arrow, "assumed liability." Am I reading that correctly?

A. Yes.

Q. What is that referring to?

A. Again, I don't -- I don't remember. It may have been that those were the liabilities that were assumed, but I don't remember.

Q. Assumed by Barclays?

A. Assumed by Barclays, yes.

M. Korycki

Q. Do you remember there being any issue as to whether it was 45 or 45.5?

A. I don't remember if it was that I misheard the number or if that was an issue.

Q. The next line says "38 billion." Is that correct?

A. Correct.

Q. What is -- what is the significance of that number?

A. I don't remember.

Q. Is it the 45 billion simply less the \$7 billion that became entangled in an issue with JPM?

MR. TAMBE: Objection to the form.

A. I don't remember. It's just -- it's just a number I wrote down there. I don't recall.

Q. To the right it appears to say, "Set up hearing for," and then I can't read that. What does the rest say?

A. "19th."

Q. Then an arrow pointing down to the 17th. And then it says, "Approved hearing for Barclays transaction 2 P.M. to 2 A.M." Am I

M. Korycki

reading that correctly?

A. That is correct, yes.

Q. And what was the issue being discussed there?

A. I don't recall exactly. I -- I believe that the "2 P.M. to 2 A.M." was how long the hearing took, but, again, I don't recall exactly.

Q. So this is referring to the September 17 and 19, 2008, correct?

A. Correct.

Q. And generally, it's describing or referring to the bankruptcy court hearings that led to the approval of the Barclays transaction?

MR. TAMBE: Objection to the form.

A. Can you repeat that question?

Q. Sure. Generally, it's describing the bankruptcy court hearings that led to or were connected with the approval of the Barclays transaction?

MR. TAMBE: Same objection.

A. It's not describing them. It's -- I'm just writing down that the hearing on the 19 -- I believe the 19th took from 2 P.M. to 2 A.M.

1 M. Korycki
2 Q. It's referring to those hearings, the
3 bankruptcy court hearings in the Barclays
4 transaction?
5 A. I believe so, yes. Let me -- when I
6 say the 17th, I don't know exactly what that
7 note means, but ...
8 Q. And then below that, there's the 22nd.
9 Do you know what the significance of the 22nd
10 is?
11 A. I don't remember.
12 Q. Going back over to the left column,
13 does that say, "Give more collateral but saying
14 taking on more risk, 1.9 billion"?
15 A. That's what it says.
16 Q. Or does it say, should that be read,
17 "Give 1.9 billion," and then underneath that,
18 "More collateral, but saying taking on more
19 risk"?
20 A. I don't -- I don't know exactly. I
21 don't remember what it -- what it was supposed
22 to mean.
23 Q. Do you recall there being a discussion
24 of having given Barclays an additional \$1.9
25 billion in connection with more risk that

1 M. Korycki
2 disclose any conversations you've had either
3 internally at Lehman/A&M or with Lehman's
4 counsel about an investigation into
5 Barclays. But if you can otherwise answer
6 that question, go ahead.
7 A. I don't remember what it was referring
8 to.
9 Q. Was there an investigation into the
10 Barclays transaction ongoing at this time, to
11 your knowledge?
12 A. Not to my knowledge.
13 Q. Was there discussion at this hearing
14 of investigating any part of the Barclays
15 transaction?
16 A. Can you repeat your question?
17 Q. Was there discussion at this meeting
18 of investigating any part of the Barclays
19 transaction?
20 A. I don't remember.
21 Q. Going back to the left side, does that
22 say "Mike Fazio" in the left column?
23 A. Yes.
24 Q. Is that to indicate that he's speaking
25 and what you wrote down to the right?

1 M. Korycki
2 Barclays took on?
3 MR. TAMBE: Objection to the form of
4 the question.
5 A. I don't remember.
6 Q. Do you recall any discussion at all
7 about \$1.9 billion in this hearing -- in this
8 meeting?
9 A. No, I don't.
10 Q. Do you know what the 1.9 billion
11 refers to?
12 A. I don't, no.
13 Q. To the right, does that say, "2 or 3
14 billion severance"?
15 A. Yes.
16 Q. Then below that, does that say "2 or 3
17 billion rejection and avoidance"?
18 A. Yes.
19 Q. And under the box to the right, can
20 you read your writing there, please?
21 A. "Hands on transcripts. Various
22 hearings held. Barclays investigation."
23 Q. And what is that referring to, the
24 "Barclays investigation"?
25 MR. TAMBE: I caution you not to

1 M. Korycki
2 A. If I recall correctly, yes.
3 Q. And do your notes say, "FMV" -- does
4 that mean fair market value?
5 A. Yes.
6 Q. -- "collateral and liabilities
7 assumed. Believes we should get back -- we
8 should get 5.5 billion back"; did I read that
9 correctly?
10 A. Yes.
11 Q. Do you recall Mr. Fazio stating a
12 belief to the effect that he believes the estate
13 should get back \$5.5 billion?
14 A. That's what my notes say. I don't
15 recall the meeting.
16 Q. And that belief was based upon an
17 issue concerning the fair market value of the
18 collateral?
19 MR. TAMBE: Objection to the form.
20 Lack of foundation.
21 What belief? What belief?
22 MR. THOMAS: Come on, counsel. It was
23 expressly referenced in the prior question.
24 Mr. Fazio's belief.
25 MR. TAMBE: Be clear about it. Do you

1 M. Korycki
2 want to play games with the witness here?
3 MR. THOMAS: You're making speaking
4 objection, which you always do.
5 MR. TAMBE: No, I'm talking about
6 fair, your questioning as fair.
7 MR. THOMAS: The federal rules require
8 you simply to state your objection:
9 "Objection to form." If you want to go,
10 "Objection to form, foundation," fine.
11 Anything beyond that is trying to coach the
12 witness in the middle of a deposition.
13 MR. TAMBE: I'm not coaching the
14 witness. I'm trying to keep your
15 questioning fair. I would say on several
16 occasions this morning your questioning has
17 been unfair and demeaning to the witness.
18 Carry on.
19 MR. THOMAS: If you think it's unfair,
20 then you can preserve your objection and
21 bring it up later, but that's not how this
22 process works when you're giving speaking
23 objections to coach the witness.
24 MR. TAMBE: So you're going to persist
25 on being unfair?

1 M. Korycki
2 A. No.
3 Q. How much time did you spend with
4 counsel preparing for the deposition?
5 A. About two hours.
6 Q. And below the reference to getting
7 back \$5.5 billion, could you please read your
8 notes below that?
9 A. "Jim Sirris said hard to value. Who
10 else was involved? Pricing of securities?"
11 Q. And who is Jim Sirris?
12 A. I don't recall. I believe he's with
13 FTI.
14 Q. Do you recall there being a discussion
15 at this meeting about how it was hard to value
16 the securities?
17 A. That's what my notes say. I don't --
18 I don't remember.
19 Q. So other than what your notes say, do
20 you remember anything about this meeting?
21 A. No.
22 Q. Back up just underneath the box to the
23 top right, it says, "52.4," and then I can't
24 read what's between that and "85 percent." Can
25 you read that?

1 M. Korycki
2 MR. THOMAS: Counsel, please just
3 follow the rules.
4 MR. TAMBE: After you.
5 Q. The basis of Mr. Fazio's belief,
6 stated belief, that the estate should get back
7 \$5.5 billion had something to do with the fair
8 market value of the collateral and the
9 liabilities assumed?
10 MR. TAMBE: Objection to form. Lack
11 of foundation.
12 MR. SHELLEY: Objection to form.
13 A. It's something that was mentioned at
14 the meeting I took notes on. I don't know.
15 Q. What did you do to prepare for today's
16 deposition?
17 A. I had a meeting with -- with Jay.
18 Q. Is that your counsel?
19 A. Counsel, yes.
20 Q. Okay. Did you speak with anyone else
21 about the deposition?
22 A. Just scheduling. Tom Hummel and Phil
23 Kruse around just scheduling for the deposition.
24 Q. Anything other than scheduling with
25 anyone other than counsel?

1 M. Korycki
2 "Billion." Does that say, "52.4
3 billion 85 percent of 52.4 billion"?
4 A. That's what it says, yes.
5 Q. Is that referring to a statement by
6 someone that 85 percent of the repo collateral
7 was covered by Bloomberg numbers?
8 Strike that. Does that refresh your
9 recollection at all on the reference to the left
10 of that concerning, "Bloomberg number of
11 transactions covered. 85 percent in value"?
12 MR. TAMBE: Objection to the form of
13 the question.
14 A. I don't remember what that was
15 referring to.
16 Q. Let's go ahead and take a look at your
17 other set of notes, please.
18 MR. TAMBE: 563B.
19 MR. THOMAS: 563B.
20 Q. And again, these are notes of a
21 meeting that you attended on September 29, 2008;
22 is that correct?
23 A. Correct.
24 Q. And can you tell me who was at that
25 meeting?

1 M. Korycki
2 A. Jim Fogarty, Rod Miller, David Coles,
3 and I have written down here Alex and Paolo. I
4 believe they were there.
5 Q. Rod Miller -- sorry.
6 A. There were other people there. I
7 don't recall everyone who was in that meeting,
8 though.
9 Q. What organizations were the other
10 people from?
11 A. The people that I did not mention?
12 Q. Yes.
13 A. They would have been A&M and I -- I
14 don't recall if there were any other Lehman
15 employees there.
16 Q. And Rod Miller is from Weil Gotshal?
17 A. Weil Gotshal, yes.
18 Q. And the second line, does that say,
19 "Barclays agreement - Clarification Agreement,
20 addendum to APA"?
21 A. Yes.
22 Q. Have you ever seen the clarification
23 agreement?
24 A. Yes.
25 Q. And have you had a chance to read that

1 M. Korycki
2 the flip board? Was that -- that information
3 written on the flip board preserved in any way?
4 A. I have a copy of it, yes.
5 Q. And can you describe what it is, the
6 document? Like how many pages is it? Is it a
7 PowerPoint or --
8 A. It's a one-pager, and I have on 563B,
9 page 3, the top half of the page with the boxes,
10 it looks somewhat -- I pretty much -- it's
11 pretty much what's right there.
12 Q. Okay. When you say you have it, you
13 have it on a, what, separate piece of paper
14 somewhere?
15 A. Right. It's about -- it's one of
16 those pages that are this big, so ...
17 Q. Okay. And how was that -- was that
18 used as just a graphic during the meeting?
19 A. It was just to lay out what was being
20 spoken at the meeting to try to put a diagram so
21 everyone can see and understand.
22 Q. Was it prepared before the meeting or
23 was it prepared as the meeting went along?
24 A. As the meeting went along.
25 Q. And who actually wrote on it, prepared

1 M. Korycki
2 document?
3 A. I, at the time, I flipped through it.
4 I have not read it recently.
5 Q. Okay. What was the purpose of this
6 meeting on the 29th?
7 A. I believe it was to get an
8 understanding of the Barclays transaction from
9 Alex and Paolo.
10 Q. And do you recall if anyone else at
11 the meeting was taking notes?
12 A. I don't remember.
13 Q. Were you told to be the scrivener,
14 note-taker for this meeting?
15 A. I wasn't told. It was just something
16 that I ended up doing.
17 Q. And you have no recollection of
18 whether anyone else in the room was taking
19 notes?
20 A. We did have a flip board, someone was
21 writing on that, one of those things that stand
22 up. Someone wrote on that for everyone to see,
23 but I don't recall if anyone else was taking
24 notes in the meeting, no.
25 Q. Do you know if anything was done with

1 M. Korycki
2 it?
3 A. Al Lakhani was writing. He's from
4 Alvarez & Marsal.
5 Q. And it's just one page, one sheet?
6 A. Yes.
7 MR. TAMBE: You guys have it.
8 Q. Prior to this meeting, had you had any
9 communications or been involved in any meetings
10 or phone calls with any of the Lehman executives
11 or ex-Lehman executives?
12 A. No.
13 Q. On the first page of your notes, about
14 five or six lines down, does that say, "Repo
15 sell to -- sell to you securities. Agree to buy
16 back." And then "sent 44 billion"; am I reading
17 that correctly? Something after -- what is
18 before "44 billion"?
19 A. It says "S.E.C."
20 Q. Okay. Does that say "sent S.E.C. 44
21 billion"?
22 A. That's what it says.
23 Q. And then the "to B," is that "to
24 Barclays"?
25 MR. TAMBE: Object to the form of the

1 M. Korycki
2 question.
3 A. I don't recall what "B" meant.
4 Q. Okay. Do you recall what "H" meant?
5 A. No.
6 Q. The -- then it says, "DTC 074, 900
7 plus 300 equals 1.2 billion." Do you recall
8 what that's referring to?
9 A. DTC 074 is a file that I had received.
10 Q. Okay. And that's a -- is that a file
11 containing certain securities that were to be
12 transferred as -- to Barclays as part of the
13 transaction?
14 MR. TAMBE: Objection to the form of
15 the question.
16 A. It's a file I believe that contains
17 securities. Whether it was supposed to be
18 transferred to Barclays or not, I don't know.
19 Q. You don't -- you have no idea whether
20 that was supposed to be transferred to Barclays?
21 A. No.
22 Q. Do you understand that to be a file
23 associated with securities that were in Lehman's
24 clearing box?
25 A. I don't know if they were in the

1 M. Korycki
2 to understand what assets and liabilities were
3 transferred over to Barclays and what remained
4 with Lehman?
5 A. Yes.
6 Q. So don't you have to have an
7 understanding of what was transferred over as
8 part of the transaction in order to have an
9 understanding of what assets and liabilities
10 Lehman still had?
11 MR. TAMBE: Objection to the form of
12 the question.
13 A. Could you ask your question again?
14 Q. Sure. In order to understand what
15 assets and liabilities Lehman still had, it's
16 important to understand what assets and
17 liabilities were conveyed to Barclays as part of
18 the transaction, correct?
19 MR. TAMBE: Objection to the form.
20 A. It was important to understand, yes.
21 Q. So what was your understanding, based
22 upon your work in connection with Lehman the
23 past year and a half, of the assets and
24 liabilities that were transferred over to
25 Barclays as part of the sale transaction?

1 M. Korycki
2 clearing box.
3 Q. Could you please give me your general
4 understanding of the sale transaction in terms
5 of assets and liabilities transferred as part of
6 the transaction?
7 A. I know that --
8 MR. SHELLEY: Objection to the form of
9 the question.
10 A. Can you just ask that again? I don't
11 know exactly what you're asking.
12 Q. Can you just, as you understand the
13 sale transaction, can you describe just
14 generally at a high level what assets and
15 liabilities were conveyed to Barclays as part of
16 the transaction?
17 MR. SHELLEY: Same objection.
18 A. As I stated previously, I wasn't
19 involved in the whole transaction that happened.
20 Q. Okay. But can you nonetheless give me
21 your understanding of the transaction?
22 A. I understand that assets and
23 liabilities went over.
24 Q. Wasn't it an important part of
25 Alvarez's work, as I think we discussed earlier,

1 M. Korycki
2 MR. SHELLEY: Objection to the form of
3 the question.
4 A. There was a lot going on. I was
5 taking a lot of notes and working under MDs. I
6 don't recall everything that was going on,
7 though.
8 Q. That's not my question. I'm just
9 asking for your general understanding, in part
10 just so I can know how to refer to certain
11 assets and liabilities for further questioning.
12 So what was your general
13 understanding -- did you understand, for
14 example, that there was repo collateral that was
15 supposed to be transferred to Barclays?
16 A. I heard the terminology. I didn't
17 understand what it was -- what it meant at the
18 time.
19 Q. And another group of assets were
20 clearance box assets?
21 A. Again, I heard the terminology. I
22 didn't understand what it meant.
23 Q. Another group was the 15c3 securities
24 or similar securities?
25 MR. SHELLEY: Objection to the form of

1 M. Korycki
2 the question.
3 MR. TAMBE: Is that a question?
4 A. I don't recall off the top of my head
5 that term.
6 Q. Okay. Continuing with your notes, the
7 next line says, "Friday transfers BONY records
8 agreed." Am I reading that correctly?
9 A. Yes.
10 Q. Then the next line says, "Monday file
11 to go." Am I reading that correctly?
12 A. Yes.
13 Q. And the "FN" over to the side, what
14 does that mean?
15 A. Footnote.
16 Q. Okay. What is that referring to? Why
17 did you write "FN"?
18 A. I don't remember.
19 Q. Does that relate to a footnote,
20 financial disclosure?
21 MR. TAMBE: Objection to the form of
22 the question.
23 A. Again, it says "FN" for footnote. I
24 don't remember what it means, what it was there
25 for.

1 M. Korycki
2 Q. Would you describe what it is, please?
3 A. It's a lead sheet that basically has a
4 description of types of securities on the left,
5 and the amounts on the right are just linked to
6 the totals from supporting files.
7 Q. And when did you prepare this
8 document?
9 MR. SHELLEY: Object to the form.
10 A. I don't recall the date.
11 Q. Did you prepare this document?
12 A. You're referring to 564B?
13 Q. Yes.
14 A. I did prepare it, yes.
15 Q. Okay. Is that your handwriting on it?
16 A. Yes.
17 Q. Now, there's a reference in the 529
18 notes to lead sheet. Do you believe the lead
19 sheet was in existence when you wrote that in
20 your notes and you're referring to it, or was
21 that a note to go in the future and create a
22 lead sheet?
23 A. You're referring to the 56 --
24 Q. 564B, yes. In your notes --
25 A. What notes are you referring to?

1 M. Korycki
2 Q. Then it says, "Lead sheet Barclays."
3 Does that say, "Lead sheet Barclays collateral."
4 A. I believe that's what it says, yes.
5 Q. And what is a lead sheet?
6 A. I believe that refers to another
7 document I put together. It was referring to
8 the top sheet of that document.
9 Q. What did you use to put that document
10 together? What was the basis of that document,
11 the other document?
12 A. The basis of what document are you
13 referring to?
14 Q. The lead sheet that you just referred
15 to.
16 A. So I received files and just basically
17 put together a summary of the totals from those
18 files.
19 Q. I'm going to go ahead and give you a
20 couple more documents. We're going to stay on
21 your notes for a while, but just in case it's
22 helpful to refer to these other ones.
23 Let me show you a document previously
24 marked as 564B. Do you recognize that document?
25 A. Yes.

1 M. Korycki
2 Q. Of the 9/29 meeting.
3 MR. TAMBE: 563B.
4 A. It says, "Lead sheet Barclays
5 collateral." That lead sheet -- I don't know if
6 this was the same exact one, but, yes, I did
7 have a lead sheet prepared at that time.
8 Q. So at the time of your 5/29 meeting
9 notes, you had some lead sheet prepared and
10 that's what your reference in your notes to lead
11 sheet is to?
12 A. Yes. Again, I don't remember if it's
13 the same exact one, though.
14 Q. I understand.
15 Okay. Going back to your notes,
16 Exhibit 563B, the next to the "44, Barclays
17 collateral," you see there's a 28. something and
18 a 58.4?
19 A. Yes.
20 Q. Is it your understanding that they
21 were settled, or the total of 44 marked
22 collateral was settled some through the DTC and
23 some through the Fed?
24 MR. TAMBE: Object to the form of the
25 question.

1 M. Korycki
2 A. Again, you say "understanding." I was
3 just putting this lead sheet together. I didn't
4 have an understanding of what the numbers
5 actually meant.
6 Q. Is it fair to assume that someone at
7 the meeting didn't just say the numbers, they
8 would have explained what the numbers meant and
9 why they were saying them?
10 A. The files had "Fed settled" and "DTC
11 settled" on them. I don't -- other than what
12 they said on the files, that's all I knew.
13 Q. Okay. The -- but when you write it
14 down, the distinction between the two is
15 referring to the "Fed settled" and the "DTC
16 settled," right?
17 MR. TAMBE: Object to the form.
18 A. I'm referring to -- can you just be a
19 little more clear? Referring to the two what?
20 Q. When you have 44 and then you have the
21 28. something and 54.4 something, are you saying
22 that you had two separate files that you said
23 the Fed settled and the DTC and that those add
24 up to the 44?
25 A. I had two files that add -- one tied

1 M. Korycki
2 the question.
3 A. I don't recall what it was referring
4 to.
5 Q. You seem to have underneath -- above
6 the lead sheet reference, you have the 074 file
7 of about 1.2 billion, you have the "Friday
8 transfers," and then you have "Monday file to
9 go."
10 Is that breaking out the clearance box
11 assets basically into three tranches?
12 MR. TAMBE: Objection to the form of
13 the question.
14 A. Again, I don't -- I don't know if they
15 were related to the clearing box. They were
16 just files that I was being sent to try to put
17 together some summary for people to understand.
18 Q. Okay. In any event, you have three
19 files or groups of securities there, and then
20 underneath you have the numbers 1.3 and then
21 1.0, and then you have a blank, which would seem
22 to relate to the "Monday file to go," which
23 hasn't gone yet.
24 Is it your understanding that those
25 numbers are referring to the three numbers,

1 M. Korycki
2 to the 28 and one tied to the 15.
3 Q. Okay. So the "44" is adding those up?
4 A. Yes.
5 Q. Underneath that you have -- is that
6 "unencumbered"?
7 A. I can't -- can't make out my own
8 handwriting.
9 Q. Do you understand that to be referring
10 to the unencumbered assets?
11 MR. TAMBE: Objection to the form.
12 A. Again, I -- I can't make out what it
13 says.
14 Q. Are you familiar with the term
15 "unencumbered" in this connection with respect
16 to assets?
17 A. No.
18 Q. Next to that it says the "1.3." I
19 assume that that's 1.3 billion; is that right?
20 A. It would be 1.3 billion, yes.
21 Q. Okay. And then there's "1.0 billion"?
22 A. Yes.
23 Q. Does the "1.0 billion" relate back to
24 the "Friday transfers BoNY records agreed"?
25 MR. TAMBE: Objection to the form of

1 M. Korycki
2 including the bank, are referring up above to
3 the three files or groups of securities?
4 MR. TAMBE: Object to the form of the
5 question.
6 A. No, that's not -- no.
7 Q. It's not?
8 A. No.
9 Q. Do you have a different understanding?
10 A. Yes.
11 Q. What is your understanding?
12 A. The "Monday file to go," I don't
13 recall exactly. It may have been I was getting
14 a revised file. I don't -- it's not -- it's
15 not -- the three don't relate to the three
16 below.
17 Q. Do you have any idea what the numbers
18 below relate to then?
19 MR. TAMBE: Which numbers?
20 Q. The 1.3 and the 1.0 and the blank?
21 MR. SHELLEY: Objection to the form of
22 the question.
23 A. I don't recall. I just --
24 Q. Down below that it says "sort
25 subtotals" and is that "muni, CS"? Am I reading

1 M. Korycki
2 that right?
3 A. Yes.
4 Q. What are "muni" and "CS"?
5 A. I believe they were just examples of
6 what was in the file.
7 Q. Which file is that?
8 A. I don't recall exactly which file it
9 was referring to.
10 Q. Do you recall why it was wanted or
11 needed to sort the subtotals?
12 A. No.
13 Q. And it has Roman numeral III,
14 "Exhibits Detailed File." Do you know what
15 that's referring to?
16 A. The lead sheet had some exhibits. I
17 believe that's what it was referring to.
18 Q. And then below in the left-hand column
19 it says "Richard." And who is that referring
20 to?
21 A. This is something else that I had to
22 take care of. It has nothing to do with
23 Barclays transaction.
24 Q. To the far right column it says, "Get
25 approval to" something "puts." Am I reading

1 M. Korycki
2 A. I -- I don't remember any discussions
3 on that.
4 Q. You don't remember any discussions at
5 this meeting at all?
6 A. To restate, there was a lot going on.
7 I was pulled in a lot of different directions.
8 I was taking notes at the -- at this meeting.
9 Q. So does that mean you don't remember
10 any discussions at all at this meeting?
11 A. I -- I don't, no.
12 Q. And your notes don't refresh your
13 recollection in any way about the issues we've
14 discussed so far?
15 A. No. Again, no, there was -- there was
16 a lot going on those early days.
17 Q. Next line is "62 to 65 billion BS."
18 Is that balance sheet?
19 A. That is balance sheet, yes.
20 Q. And what is that referring to?
21 A. I don't remember.
22 Q. Were you involved in any of Alvarez's
23 efforts to create a post-sale transaction
24 balance sheet?
25 A. Yes.

1 M. Korycki
2 that right?
3 A. "Make payments."
4 Q. "Make payments." Is that payments to
5 employees?
6 A. This has nothing to do with the
7 Barclays transaction. This was something else
8 on my to-do list at the time.
9 Q. Turning the page, it says, "Rod Miller
10 and Alex Kirk." Is that to indicate that that's
11 who's talking now?
12 A. I don't recall.
13 Q. Does that say, "Wednesday night Fed
14 lent 45 billion through Chase tri-party repo.
15 Couldn't finance position"?
16 A. That's what it says.
17 Q. Okay. Do you have an understanding
18 what that means, "couldn't finance position,"
19 what that's referring to?
20 A. No, I don't.
21 Q. "Thursday told Barclays we want to
22 take us out of lending facility." Do you recall
23 there being discussion to the effect that the
24 Fed told Barclays they wanted Barclays to take
25 the Fed out of the lending facility?

1 M. Korycki
2 Q. What was the nature of your
3 involvement in that effort?
4 A. I was prepared -- basically just
5 typing it up in Excel.
6 Q. So you didn't do any substantive work,
7 you just typed up information given to you by
8 others in Excel?
9 A. That is correct.
10 Q. Were you privy to any of the
11 substantive work, discussions about the balance
12 sheet, communications, issues?
13 MR. TAMBE: Objection to form.
14 A. Could you repeat that question?
15 Q. Let's move on. "Barclays" -- next
16 line says, "Barclays gave to JPM 45 billion
17 cash"; am I reading that correctly?
18 A. Yes.
19 Q. "Got off collateral at Fed." Did I
20 read that correctly?
21 A. Yes.
22 Q. Do you recall generally that that's
23 how this was supposed to work, that Barclays was
24 supposed to step into the Fed's place
25 essentially and get the Fed repo collateral so

1 M. Korycki
2 the Fed could get out of this?

3 MR. TAMBE: Object to the form of the
4 question.

5 A. Again, I don't know exactly everything
6 that was supposed to happen. I --

7 Q. I understand that, but based upon your
8 year and a half of work on the Lehman project,
9 is that your general understanding?

10 MR. TAMBE: Object to the form of the
11 question.

12 A. Can you repeat your question again?

13 Q. Sure. Was it your general
14 understanding that the Fed asked Barclays to
15 come in in your place at -- on the repo
16 collateral it had -- repo transaction it had
17 with Lehman and that Barclays was supposed to
18 put up the 45 billion and, in return for that,
19 get the Fed repo collateral?

20 MR. SHELLEY: Object to the form.

21 A. Again, you say "understanding." I
22 didn't have -- I didn't have an understanding at
23 the time. It was -- I was really pulled --
24 doing -- putting together Excel schedules and
25 reformatting stuff for people to understand it.

1 M. Korycki

2 Q. So, as you sit here today, you had no
3 idea that the Fed asked Barclays to come in and
4 take it out of the repo?

5 A. I wasn't privy to any -- I wasn't
6 privy to those conversations.

7 Q. Didn't -- different question. I'm
8 asking if you had that general understanding.

9 MR. SHELLEY: Objection to form.

10 A. You keep referring to "understanding."
11 I --

12 Q. That's because I want to get your
13 understanding. That's what I'm asking for. I
14 understand you can put caveats into your
15 question like it was busy, I was just taking
16 notes and things like that, but I'm asking for
17 your understanding.

18 Was it your understanding -- is it
19 your understanding that the Fed came in, asked
20 Barclays to take it out of the repo that the Fed
21 had with Lehman?

22 MR. TAMBE: Object to the form. Asked
23 and answered. Argumentative.

24 MR. MILLS: Objection to the form.

25 MR. SHELLEY: Objection.

1 M. Korycki

2 A. Again, I don't have an understanding
3 of everything that happened. I was just putting
4 together and reformatting files that I was given
5 to be presentable.

6 Q. Do you have any understanding
7 whatsoever with respect to whether the Fed asked
8 Barclays to come in and replace it on the repo?

9 A. No.

10 Q. And you have no recollection of that
11 from this meeting or from reading your notes?

12 A. No.

13 Q. The next line, am I reading that
14 correctly, "\$45 billion purchases consideration
15 by Barclays on Thursday morning through JPM on
16 repo contract on all assets funded by Fed"?

17 MR. TAMBE: Objection to form.

18 A. Can you ask your question again?

19 Q. Sure. I'm just asking if I read that
20 correctly. "\$45 billion purchases by Barclays."
21 Above that it says "consideration," "on Thursday
22 morning through JPM on repo contract on all
23 assets funded by Fed"?

24 A. You're asking me if you read it
25 correctly. That is what the notes read.

1 M. Korycki

2 Q. Do you have any understanding of what
3 that's referring to?

4 A. I don't remember, no.

5 Q. Below there's a \$7 billion figure and
6 a \$38 billion figure. What is your
7 understanding of why the \$45 is broken out into
8 7 billion and 38 billion, respectively?

9 MR. TAMBE: Objection to form.

10 A. Again, your question refers to
11 understanding. I don't have an understanding
12 of --

13 Q. Let me just make sure I've got your
14 testimony correct. You have no idea what the \$7
15 billion refers to or the \$38 billion refers to
16 or why the 45 is broken out that way?

17 MR. TAMBE: Objection.

18 MR. SHELLEY: Objection.

19 MR. MILLS: Objection.

20 A. I don't have an understanding of why
21 it's broken out that way.

22 Q. On the left, you have a note to Lori
23 Fife. And is that her phone number above it?

24 MR. TAMBE: Object to form.

25 Q. Excuse me. You have a note

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<p>1 M. Korycki</p> <p>2 Q. So you now recall differently at the</p> <p>3 meeting. You testified previously you don't</p> <p>4 recall whether anyone did not answer any</p> <p>5 questions. Do you now recall someone at the</p> <p>6 meeting not answering a question?</p> <p>7 A. You asked if everyone was cooperative,</p> <p>8 and I believe I said somewhat. I would say</p> <p>9 not -- not that cooperative.</p> <p>10 Q. Let's talk about the meeting. Were</p> <p>11 they cooperative in answering all of A&M's</p> <p>12 questions at the meeting?</p> <p>13 MR. TAMBE: Object to the form of the</p> <p>14 question.</p> <p>15 A. You say "all the questions." I -- not</p> <p>16 all the questions.</p> <p>17 Q. What question wasn't answered?</p> <p>18 A. I don't remember exactly what</p> <p>19 questions were not answered.</p> <p>20 Q. But do you remember that there was a</p> <p>21 question unanswered after the break?</p> <p>22 A. I don't --</p> <p>23 MR. TAMBE: Todd, do you want to ask</p> <p>24 the witness whether she conferred with me</p> <p>25 about the testimony? Go ahead and ask her</p>	<p>1 M. Korycki</p> <p>2 that. Don't make insinuations and don't</p> <p>3 suggest that there was anything said to this</p> <p>4 witness about the substance of the</p> <p>5 testimony. There was no discussion between</p> <p>6 the two of us at the break. So I resent</p> <p>7 that, and that's unfair, and that's the kind</p> <p>8 of unfair stuff that I do object to.</p> <p>9 MR. THOMAS: Through?</p> <p>10 MR. TAMBE: Yes, I'm through.</p> <p>11 A. We did -- we did not have any</p> <p>12 conversation related.</p> <p>13 Q. My question was, do you now recall</p> <p>14 that there were questions at this meeting that</p> <p>15 you attended and had taken notes on that were</p> <p>16 not answered?</p> <p>17 A. I don't recall any specific questions.</p> <p>18 Q. So as you sit here today you can't</p> <p>19 identify any questions that were not answered at</p> <p>20 the meeting?</p> <p>21 A. Again, no specific questions.</p> <p>22 Q. Now, turning back to A&M 4889, let me</p> <p>23 just ask, do you recall generally the</p> <p>24 questions -- do you now recall generally the</p> <p>25 questions weren't answered but you just can't</p>
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<p>1 M. Korycki</p> <p>2 recall the content, or do you know whether there</p> <p>3 were any questions not answered at this meeting?</p> <p>4 MR. TAMBE: Object to the form of the</p> <p>5 question.</p> <p>6 A. It was -- it was a tough meeting. It</p> <p>7 was a tough meeting. There was -- I don't</p> <p>8 recall any specific questions that were not</p> <p>9 answered.</p> <p>10 Q. Why was it a tough meeting?</p> <p>11 A. I rephrase "tough meeting." There was</p> <p>12 just a lot going on at the time.</p> <p>13 Q. I mean, Alvarez at this point had</p> <p>14 really stepped into the shoes of Lehman,</p> <p>15 correct?</p> <p>16 MR. TAMBE: Objection to the form of</p> <p>17 the question.</p> <p>18 A. Alvarez came in as advisor, the</p> <p>19 advisors.</p> <p>20 Q. And then Alvarez people took prominent</p> <p>21 positions at Lehman, such as David Coles became</p> <p>22 the CFO and Mr. Marsal became First Chief</p> <p>23 Restructuring Officer and then CEO, correct?</p> <p>24 A. Those titles are -- are correct, yes.</p> <p>25 Q. And Weil Gotshal is Lehman's counsel,</p>	<p>1 M. Korycki</p> <p>2 correct?</p> <p>3 A. That is correct.</p> <p>4 Q. At any point in time was Weil Gotshal</p> <p>5 ever not cooperative in providing information to</p> <p>6 Lehman or Alvarez?</p> <p>7 MR. SHELLEY: Objection to form.</p> <p>8 A. Not to my knowledge.</p> <p>9 Q. Going back to your notes, AM4889, can</p> <p>10 you please describe the chart at the top of the</p> <p>11 page that you said you took down and that was</p> <p>12 used at the meeting and that you still have a</p> <p>13 copy of, I think a flip sheet is what you called</p> <p>14 it?</p> <p>15 MR. TAMBE: Objection to the form of</p> <p>16 the question.</p> <p>17 A. Do you want me to read what's --</p> <p>18 Q. No. Can you just give a general</p> <p>19 description of what it shows?</p> <p>20 A. Again, I don't have a full</p> <p>21 understanding. I was just taking notes of what</p> <p>22 was on the flip board at the time.</p> <p>23 Q. Is your testimony that you have no</p> <p>24 idea what the flip board and the notes</p> <p>25 represent?</p>

1 M. Korycki
2 A. I don't have an understanding, yes.
3 Q. Do you know why they wrote this up on
4 the flip board during your meeting?
5 A. Yes.
6 Q. Why?
7 A. To get an understanding of the
8 transaction, transactions.
9 Q. At the top of the page, does that say,
10 "JPM liquidated collateral 8.5 and gave 7
11 billion cash"? Am I reading that correctly?
12 A. That -- that's what it says.
13 Q. And below it says, "JPM, 7 billion --
14 7 billion cash put in account for benefit of
15 Barclays"?
16 A. That's what it says.
17 Q. Does this refresh your recollection as
18 to the issue with \$7 billion of the \$45 billion
19 that Barclays gave the collateral associated
20 with that amount not coming back to Barclays?
21 MR. TAMBE: Object to the form.
22 A. Again, I know there was an issue. I
23 don't have an understanding of ...
24 Q. Below the box it says -- there's an
25 arrow and it says, "\$5 billion collateral. JPM

1 M. Korycki
2 whatsoever of what is being described here, the
3 issue being described?
4 A. No, I don't.
5 Q. Where it says "8.4 billion of
6 securities," do you understand that to be Lehman
7 securities that were or were supposed to be part
8 of the repo collateral?
9 MR. TAMBE: Object to the form of the
10 question.
11 A. Again, I don't have an understanding.
12 I don't -- I don't know.
13 Q. Do you have an understanding that
14 they're referring to Lehman securities?
15 A. I don't know if they were referring to
16 Lehman securities.
17 Q. In this arrangement being discussed,
18 was anybody else providing securities?
19 MR. TAMBE: Objection to form.
20 A. I don't -- I don't know.
21 Q. Do you recall discussion at this
22 meeting about \$8.4 billion worth of Lehman
23 securities being really worth half of that
24 amount?
25 A. Again, I don't know that they were

1 M. Korycki
2 gives LBHI loan." Am I reading that correctly?
3 A. That's what it says.
4 Q. What is the reference to the \$5
5 billion collateral?
6 A. I don't know what it's -- I don't
7 know. I just wrote it down.
8 Q. And then below it says "15.8 billion
9 revolver." Does that refer to a revolving loan
10 that JPM gave to Lehman?
11 A. I don't know.
12 Q. In the box next to "Barclays," does
13 that say "38 billion collateral," and then a
14 line, "7 billion cash"?
15 A. That's what it says.
16 Q. Do you know what that represents, that
17 division?
18 A. No, I don't.
19 Q. Below that it says, "Sunday Barclays
20 talk to JPM, resolve 7 billion cash. 8.4
21 billion securities worth half amount (Barclays 7
22 billion of JPM collateral unresolved. Will work
23 out over time." Did I read that correctly?
24 A. That's what it says.
25 Q. And do you have any understanding

1 M. Korycki
2 Lehman securities. I don't recall.
3 Q. Do you recall any discussion about any
4 set of securities being worth half the mark --
5 the amount they were marked at?
6 A. I don't recall discussions at the
7 meeting.
8 Q. Below does that say, "Friday Barclays
9 pay 45 billion cash, only received 38 billion -
10 gap"?
11 A. It says, "Friday B pay." The rest
12 of -- the rest of what you read was right.
13 Q. Do you understand "B" to be short for
14 "Barclays" when you write that "B"?
15 A. I believe that's what it meant, yes.
16 Q. Does that refresh your recollection
17 that there was a gap in terms of what Barclays
18 paid and what it actually got back?
19 A. That's what it says. I don't, again,
20 I don't recall.
21 Q. No recollection of that gap?
22 A. No.
23 Q. Next line, does that say, "15c3
24 account has to come off table"?
25 A. That's what it says.

1 M. Korycki
2 Q. Do you recall discussion of the 15c3
3 account at this meeting?
4 A. I don't recall.
5 Q. Do you have any idea what that line is
6 referring to?
7 A. I don't know.
8 Q. Do you think you know?
9 A. I don't. I don't know. It's just a
10 note that I took down.
11 Q. Next line, "Sunday Unencumbered Box,"
12 with a B for Barclays written above it, "(don't
13 have control over this)"; did I read that
14 correctly?
15 A. That is correct.
16 Q. Do you have an understanding what the
17 issue is here?
18 A. Again, I don't have an understanding,
19 no.
20 Q. I just want to make sure, when I ask
21 if you have an understanding, it's if you have
22 any understanding at all, not just that whether
23 you know for certain. If you have some
24 understanding or you believe you might know or
25 you think something, please let me know when I

1 M. Korycki
2 transferred to Barclays were approximately 1.9
3 billion?
4 MR. MILLS: Object to the form.
5 A. I don't recall being told by anyone.
6 Q. Do you recall that being the case?
7 A. I don't recall.
8 Q. Down below under "Barclays" it says
9 "Assets." Can you briefly describe what this
10 section of your notes is referring to?
11 A. I believe they refer to the assets
12 that were transferred to Barclays.
13 Q. And the first item is, "Repo assets
14 transferred on Thursday less," and then it says
15 "43.1 billion." Am I reading that correctly?
16 A. Yes.
17 Q. Do you know if there was something
18 that was supposed to come after the "less"
19 there?
20 A. I don't remember.
21 Q. We'll come back to that issue in
22 another document we'll look at.
23 A. Okay.
24 Q. So the 43.1 billion, is that -- do you
25 understand that to be the marked value of the

1 M. Korycki
2 ask if you have any understanding at all.
3 A. Okay.
4 Q. Does that instruction change any of
5 your prior answers?
6 A. No, it doesn't.
7 Q. Okay. The next line, "Sunday morning
8 UB 1.9 billion." I guess valued at -- strike
9 that. Start over. "Sunday morning UB valued at
10 1.9 billion." Am I reading that correctly?
11 A. Yes.
12 Q. And the "UB" would refer to the
13 unencumbered box on the line above?
14 A. I don't want to make an assumption. I
15 don't -- I don't know what I was referring to
16 there.
17 Q. Can you think of anything other that
18 you would be referring to when you write "UB"
19 underneath "unencumbered box"?
20 MR. TAMBE: Object to form.
21 A. Again, I don't -- I don't recall what
22 I was referring to there.
23 Q. Do you recall that the -- being told
24 at or about this time by anyone that the value
25 of the assets in the unencumbered box to be

1 M. Korycki
2 repo assets that were transferred to Barclays on
3 or about that Thursday, September 18, 2008?
4 MR. TAMBE: Objection to the form of
5 the question.
6 A. Again, you say "understand." I don't
7 have an understanding of what that number was.
8 Q. Did you ask a question at that meeting
9 about what it was?
10 A. No, I didn't.
11 Q. Did you understand at the meeting? Do
12 you think you understood at the meeting and just
13 don't recall today?
14 A. I didn't understand at the meeting
15 what it was.
16 Q. You recall that you didn't understand
17 at the meeting?
18 A. I know I didn't understand, yes.
19 Q. Why didn't you ask?
20 A. I was going to follow up on it later.
21 Q. Did you follow up on it later?
22 A. No.
23 Q. Why not?
24 A. Just had a lot of other things on my
25 plate.

M. Korycki

Q. Did you have a sense of what other people from Alvarez at the meeting understood what that number -- what that figure was?

MR. TAMBE: Objection to form. Lack of foundation.

A. I don't know if anyone understood.

Q. Have you ever heard of a Repurchase Agreement before?

A. No.

Q. The -- did you ask what they were -- well, strike that. Even as you sit here today you don't know what a repo is? You're not familiar -- are you familiar with the term "repo"?

A. I'm not familiar with it, no.

Q. On page 1 of your notes, do you see a description of what a repo is in terms of selling or transferring securities and agreeing to buy back?

A. Well, yeah. Yes. Yes.

Q. So they -- people at this meeting explained what a repo was, correct?

A. It was obviously explained, yes.

Q. So as you -- so at the time you would

M. Korycki

have had some understanding of what a repo was, correct?

A. Yes.

Q. Turning back to 4889, the second item is "Unencumbered Box." Did I read that correctly?

A. That is correct.

Q. And then you have three groupings there. The first is, "Friday, 9/19: 1.035 billion." Am I reading that correctly?

A. Yes.

Q. Then it says, arrow, "to move .6 billion." Do you have any idea what that's referring to, the last part, "to move .6 billion"?

A. I don't recall.

Q. And below in the second line says, "Move yesterday B-3 box 636, 269,929,000." Am I interpreting that correctly?

A. You read the first half of it right. The 269 I -- I don't want to assume that it was million. I don't recall off the top of my head.

Q. In any event, it's identifying a value associated with the grouping in grouping number

M. Korycki

2, correct?

A. I believe so, yes.

Q. And then the third grouping is, "B-1 and B-2 to move. Takes time. Have to ask DTC to do." Did I read that correctly?

A. Yes.

Q. And then the value there is 984, whether that be millions or whatever. It says 984; is that right?

A. Yes.

Q. And then down below you use the mathematical symbol for "the sum of" 1, 2, 3 equals 2.3 less 0.6 equals 1.7 billion. Did I read that correctly?

A. Yes.

Q. So what was being described was, in this meeting with Weil and Lehman officials involved with negotiating the transaction, was that, in addition to the repo collateral, other assets would be transferred to Barclays include these three groupings of unencumbered box assets?

MR. SHELLEY: Objection. No foundation.

M. Korycki

MR. MILLS: Objection.

A. Again, these were notes that I took at the meeting. They were topics that came up at the meeting.

Q. Is that your -- but what I described, is that your understanding of what this is and what is reflected in your notes?

MR. TAMBE: Objection to the form.

Asked and answered.

A. Again, I don't have a full understanding of all the notes that were taken.

Q. But is that -- is that your general understanding of what is being described here, the assets that were conveyed to Barclays, and there was various groups of assets and those were being described at the meeting?

MR. TAMBE: Objection to form.

MR. MILLS: Objection.

MR. SHELLEY: Objection. Asked and answered.

A. I think I covered this previously, that I believed these were assets that went over to Barclays.

Q. As part of the sale transaction?

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1 M. Korycki
2 A. Yes.
3 Q. Then the third item there, does that
4 say, "769 million securities pledged with JPM
5 segregated account 15(c)-3?"
6 A. That's what it says.
7 Q. Do you recall that being part of the
8 assets that were conveyed to Barclays as part of
9 the sale transaction?
10 A. I don't recall.
11 Q. And the last line is, "Building in New
12 York. Two centers New Jersey"; is that right?
13 A. That's what it says.
14 Q. Turning the page, it said -- says,
15 "first repo with" -- should that be "Fed Monday,
16 September 15"?
17 A. I don't recall what it -- what it was
18 meant to be.
19 Q. Does it literally say, "First repo
20 with Feb., Monday 9/15"?
21 A. That's what it reads, yes.
22 Q. And do you believe that "Feb." there
23 should have been "Fed"?
24 A. Again, I don't -- I don't recall.
25 Q. Further down, does that say, "45

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1 M. Korycki
2 meeting was.
3 Q. About halfway down, it says, "Took hit
4 for .76." Do you have any understanding what
5 that's referring to?
6 A. I don't recall.
7 Q. Then it says, "1.5 cure period"; is
8 that what it says?
9 A. Yes.
10 Q. And then "cure period" has 1.6 below.
11 Do you have any understanding what
12 those numbers are referring to?
13 A. I don't, no, I don't recall.
14 Q. Further down it says, "Paid 38 cash to
15 buy 42.9 billion assets. Lehman value different
16 valuation. 5.1." Am I reading that correctly?
17 A. That's what's written here, yes.
18 Q. And underneath the "42.9 billion
19 assets," does that say "38 valued assets"?
20 A. That's what it says.
21 Q. Do you recall there being discussions
22 at this meeting about there being a different
23 valuation of Lehman assets and the difference
24 between those valuations being approximately \$5
25 billion?

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1 M. Korycki
2 billion with Fed, extinguished liability"?
3 A. That's what it says.
4 Q. And the next line is "1.75 billion"?
5 A. That's what it says.
6 Q. And those are added up to 46.75 on the
7 left side?
8 A. Yes.
9 Q. What is being described here at the
10 meeting?
11 A. Again, I was taking notes. We were
12 talking about the assets -- or, not we. They
13 were talking about the assets and liabilities.
14 I don't have a full understanding of what was
15 going on.
16 Q. At this point you were part of a group
17 at Alvarez that was trying to work up a
18 post-Barclays sale transaction balance sheet,
19 correct?
20 A. That is correct.
21 Q. Was one reason for this meeting
22 getting this information to work up that balance
23 sheet?
24 A. I wasn't the one that set up the
25 meeting. I don't know what the purpose of the

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1 M. Korycki
2 A. I -- I don't recall.
3 Q. You have no recollection of --
4 whatsoever of any discussion about any
5 difference between the marked value of Lehman
6 securities and the actual value of those
7 securities at this meeting?
8 MR. SHELLEY: Objection. Asked and
9 answered.
10 A. Again, I don't -- I don't recall.
11 Q. Do you know who at the meeting is
12 describing this difference in valuation?
13 A. I don't recall.
14 Q. Do you recall anyone asking questions
15 of anyone at Lehman or Weil about this \$5
16 billion difference in valuation?
17 A. Again, I don't remember.
18 Q. Do you recall any discussion of marks
19 being stale or needed to be updated in this
20 meeting?
21 A. I don't remember.
22 Q. Down below it says "1.9 unencumbered
23 securities"; is that correct?
24 A. That's what it says.
25 Q. And then "769 securities from lockup";

1 M. Korycki
2 is that correct?
3 A. That's what it says.
4 Q. Turning the page, can you describe the
5 chart that's at the top half of the page, top
6 third of the page, and what that is?
7 A. Left-hand side is the assets and
8 right-hand side is liabilities.
9 Q. Is this -- is this something you would
10 have written down that was presented at the
11 meeting, or is this your own work?
12 A. No, I wrote this down. It's not my
13 own work.
14 Q. Do you recall who presented this
15 information?
16 A. I don't remember.
17 Q. Do you recall, was there anything in
18 written -- like the flip sheet that had this
19 information, or was this all just oral, orally
20 presented?
21 A. I don't remember.
22 Q. Under "Assets" you see the 38 billion
23 plus the 5 billion equals 43.1 billion?
24 A. Yes.
25 Q. Is that reference or reflect the same

1 M. Korycki
2 billion difference between the 43.1 and the 38
3 billion represents?
4 MR. MILLS: Objection.
5 A. Just a number I wrote down to get to
6 the 43.1. I don't -- I don't know exactly what
7 it was meant to be here.
8 Q. Well, so it's your testimony you have
9 no idea what that \$5 billion difference between
10 the 38 and the 43 billion represents?
11 MR. SHELLEY: Objection. Asked and
12 answered.
13 A. I already said, I just -- I wrote down
14 the 5. I don't have a description next to it.
15 Q. I understand you don't have a
16 description next to it, but you have no idea
17 what the \$5 billion represents?
18 MR. TAMBE: Fourth time. Asked and
19 answered.
20 MR. THOMAS: It's not answered yet.
21 MR. TAMBE: It's been answered any
22 number of times. You just don't like the
23 answer.
24 A. I don't recall what it was -- I don't
25 recall what it was meant to be here.

1 M. Korycki
2 delta between the marks of securities and what
3 they were considered to be really worth that was
4 discussed on the previous page?
5 MR. TAMBE: Objection to form. Lack
6 of foundation.
7 A. Again, I just wrote this down. I
8 don't know the relationship to the previous
9 page.
10 Q. So, again, you have no idea what that
11 \$5 billion difference between 43.1 billion and
12 38 billion represents?
13 A. I don't know what it represents, no.
14 Q. Let me ask, as you sit here today, do
15 you have any understanding of what that \$5
16 billion difference is?
17 A. What it's -- on this sheet right here?
18 Q. No. Yes, the \$5 billion referenced on
19 this sheet, what is that difference? What does
20 it refer to?
21 A. I don't -- I don't have a description
22 next to it. I don't know exactly what I was
23 referring to there.
24 Q. I understand. As you sit here today,
25 what is your understanding of what the \$5

1 M. Korycki
2 Q. As you sit here today, are you aware
3 of there being an issue as to whether the repo
4 collateral that was transferred to Barclays was
5 worth the nominal marks associated with that
6 repo collateral?
7 MR. TAMBE: Objection to form.
8 A. Could you ask your question again?
9 Q. Sure. As you sit here today are you
10 aware that there was an issue with respect to
11 whether the nominal mark value of the repo
12 collateral transfer to Barclays was actually
13 worth that amount?
14 MR. TAMBE: Same objection.
15 A. I understand that there was -- I know
16 that there was an issue with the sale. I don't
17 know all -- I'm not into all the details on ...
18 Q. Do you know that Barclays disagreed
19 that that amount -- that the marked amounts of
20 the Lehman repo collateral that it received was
21 actually worth that amount?
22 MR. TAMBE: Objection to the form of
23 the question.
24 A. No, I don't.
25 Q. The next line is, "Unencumbered, 1.9,"

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<p>1 M. Korycki 2 and then it says, "Securities, 0.8." Is the .8 3 just rounded for the 769? 4 A. I don't want to assume. I -- I don't 5 recall. 6 Q. Next column, it says -- you wrote 7 "Deal Hits." Am I reading that correctly? 8 A. Yes. 9 Q. What did you mean by "Deal Hits"? 10 A. It was a term that someone else called 11 it. I had no meaning. I don't know what it 12 actually meant. 13 Q. You had no idea what "deal hits" meant 14 when you wrote it down? 15 A. No. I just wrote it down. 16 Q. Do you understand that to be the loss 17 on the deal that Lehman would incur? 18 MR. TAMBE: Objection to the form of 19 the question. 20 A. Again, you say "understand." I -- it 21 was something that was given to me and I wrote 22 it down. 23 Q. Right. Do you have an understanding 24 that it reflects the difference between the 25 value of the assets sold and the liabilities</p>	<p>1 M. Korycki 2 assumed or consideration paid by Barclays? 3 MR. SHELLEY: Objection to form. 4 A. I don't know. I don't have an 5 understanding, no. 6 Q. Do you recall anyone at that meeting 7 ever expressing any surprise or concern about 8 any of the information provided by Lehman or 9 Weil? 10 MR. TAMBE: Object to the form of the 11 question. 12 A. I don't recall. 13 Q. Do you recall any action items, 14 follow-up coming out of the meeting? 15 A. I don't remember. 16 Q. Further down it has the numbers 8 and 17 then, parentheses, 1.0, and then below that, 18 parentheses, 7.6. Do you know what that's 19 referring to? 20 A. I don't recall, no. 21 Q. On the next page, the numbers 48, 45 22 and, arrow, 3 billion and, arrow, 38 billion. 23 Below that 8.6, 1.6 in parens, 7.0 in parens. 24 Do you have an understanding, any understanding 25 at all, of what any of those numbers are</p>
Page 96	Page 97
<p>1 M. Korycki 2 referring to? 3 A. I don't have an understanding. They 4 were just numbers that I wrote down. 5 Q. Okay. Let's turn to Exhibit 564B, 6 please. And I think we established earlier this 7 was a document that you prepared and that's your 8 handwriting. What was the purpose of your 9 preparing this document? 10 A. It was to prepare a summary based on 11 files that had been sent to me. 12 Q. Summary -- why were you preparing the 13 summary? 14 A. I had been sent a bunch of files 15 trying to find out -- put it in a more 16 presentable format for management. 17 Q. Do you know to what end? 18 MR. TAMBE: Objection to form. 19 A. Ask that again. 20 Q. Why? Why did they want this 21 information? 22 A. I was just asked to prepare it. I 23 don't know exactly what they were using it for. 24 Q. It's your testimony you had no idea 25 why management at Alvarez wanted this</p>	<p>1 M. Korycki 2 information? 3 A. Again, I was asked to -- I was 4 basically doing what I was asked to do. 5 Q. Beyond just doing what you were asked 6 to do, you have no idea why management wanted 7 it? 8 MR. SHELLEY: Objection to form. 9 A. I was just -- I was -- didn't have a 10 full understanding, no. 11 Q. Did you have any understanding? 12 A. It was basically for a summary for 13 what had been transferred to Barclays. 14 Q. What was your source of information 15 putting together what had been transferred to 16 Barclays? 17 A. I had received Excel files. 18 Q. And did you have discussions with 19 anyone? 20 A. No. 21 Q. And well, there must have been 22 something other than just receiving Excel files, 23 right? 24 MR. SHELLEY: Objection. 25 Q. That was the basis for putting this</p>

1 M. Korycki
2 together?
3 A. I received the Excel files to put this
4 together. I didn't have any discussions with --
5 on what the Excel files meant.
6 Q. Did the Excel files say that these are
7 assets that were transferred to Barclays?
8 A. I don't recall them saying that, no.
9 Q. So where would you have learned that
10 information from?
11 MR. TAMBE: Objection to form.
12 A. I didn't know that they were actually
13 transferred to Barclays. I -- I was sent the
14 files and this is -- and asked to put together a
15 summary of what the totals on each of those
16 files.
17 Q. But I think earlier you said your
18 understanding was this was what was transferred
19 to Barclays, right?
20 A. I did say that, yes.
21 Q. So was this understanding in part
22 based upon meeting like the one you had with
23 Weil and Lehman Brothers?
24 MR. TAMBE: Are you talking about the
25 9/29 meeting?

1 M. Korycki
2 be more than that.
3 So what is your basis of knowledge as
4 to what's included in the description of assets
5 transferred to Barclays. Is it discussions or
6 meetings with Weil? Is it communication with
7 Weil? Is it your own independent review of the
8 contract documents? What went into that
9 understanding?
10 MR. SHELLEY: Objection to form.
11 MR. TAMBE: Objection to form.
12 MR. SHELLEY: Objection. Compound.
13 A. Again, I was sent Excel files and told
14 to summarize them and put a lead sheet together
15 for them. That -- I didn't have any
16 discussions. I didn't have an understanding of
17 what was in the files.
18 Q. Okay. Let's look at some of your
19 notes on Exhibit 564B. There's a line that says
20 "Total - Transferred Under Repo Agreement," and
21 originally it was 44 billion something and then
22 it says "less 1.035 billion," I believe, and
23 that adds up to 43 billion something. Is that
24 right?
25 A. That's -- that's the way it reads.

1 M. Korycki
2 MR. THOMAS: Yes.
3 MR. TAMBE: So it's not just Weil and
4 Lehman. You've got Alex Kirk and Paolo
5 Tonucci there, right? Who are now with
6 Barclays.
7 MR. THOMAS: They're Lehman people.
8 MR. TAMBE: Who are now at Barclays at
9 the time of that meeting. Are you
10 deliberately saying -- misleading her as to
11 who was at the meeting?
12 MR. THOMAS: Are you nuts? I mean,
13 really, are you nuts? We used the term
14 "Lehman" for the Lehman current or former
15 employees that worked on the deal throughout
16 the deposition.
17 MR. TAMBE: So we're talking about the
18 same meeting, the 9/29 meeting?
19 MR. THOMAS: Yes.
20 A. Can you repeat your question?
21 Q. Sure. You're doing -- I just really
22 want to know what the basis of your information
23 was for preparing a sheet listing assets
24 transferred from Lehman to Barclays, and it
25 can't just be Excel files of numbers. It must

1 M. Korycki
2 Q. Okay. And the less -- the reason why
3 there was the 1.035 billion backed out of there
4 was because, while that was transferred at the
5 same time as the repo collateral, it was not
6 transferred -- or, strike that.
7 The 1.035 billion was backed out
8 because it was not part of the repo collateral;
9 is that correct?
10 MR. TAMBE: Objection to form.
11 MR. MILLS: Objection to form.
12 A. I don't -- I don't know why it was
13 backed out.
14 Q. You have -- as you sit here today, you
15 have no idea why it was backed out, why you
16 backed it out of the 44 billion?
17 MR. TAMBE: Objection. Asked and
18 answered.
19 A. I don't know why it was backed out.
20 Q. Do you think you knew at the time why
21 it was backed out?
22 A. No, I don't believe so.
23 Q. Do you think someone told you to back
24 it out?
25 A. Someone -- someone had told me to back

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<p>1 M. Korycki 2 it out and that's why I did it, yes. 3 Q. But you don't have a recollection of 4 why they told you to back it out? 5 A. No. 6 Q. Do you know who told you to back it 7 out? 8 A. I don't remember. 9 Q. Okay. Underneath the circled \$43 10 billion, after the backout, does that say, 11 "delivered as repo"? 12 A. That's what it says. 13 Q. And is that -- do you understand that 14 \$43 billion valuation is based upon marks 15 associated with that repo collateral? 16 A. I don't have an understanding. My 17 knowledge is that the Fed settled plus your DTC 18 settled less your 1035. 19 I'm just doing math here. That's all. 20 I don't have an understanding. 21 Q. Then you have, further down, you have, 22 "Friday transfers, 9/19 part of unencumbered 23 box"? Is that -- am I reading that correctly, 24 interpreting that correctly? 25 A. I believe U -- "UB" meant unencumbered</p>	<p>1 M. Korycki 2 box. 3 Q. Right. So does this indicate that the 4 1035 billion that was transferred Friday, or 5 shows up as a transfer on this sheet as Friday, 6 was associated with the unencumbered box? 7 MR. TAMBE: Objection to the form of 8 the question. 9 A. Again, I don't have an understanding. 10 That -- I just can read you what my notes say. 11 Q. Do you have an understanding of 12 whether that 1.035 billion was actually 13 transferred out of the unencumbered box on 14 Friday? 15 A. I don't, no, I don't know. 16 Q. You have, under the section here 17 titled "Unencumbered Box 'As of Sunday 9/21/08' 18 (also known as Clearance Boxes)," do you see 19 that? 20 A. I see it. 21 Q. Does that refresh your recollection 22 that unencumbered box and clearance boxes were 23 sometimes used synonymously? 24 MR. TAMBE: Objection to form. 25 A. I have it written here. I -- I don't</p>
Page 104	Page 105
<p>1 M. Korycki 2 recall. 3 Q. You would have tried to make this 4 document as accurate as possible, correct? 5 A. That is correct. 6 Q. And then we have -- so under 7 unencumbered or clearance box assets, we again 8 have those same three groupings, or we have 9 three groupings like we saw before in your 10 notes. Do you recall seeing those before, the 11 three groupings? 12 MR. TAMBE: Objection to the form. 13 What three groupings? 14 A. I'm lost. 15 Q. We can go back to the first page of 16 your 9/29 notes. Strike that. Third page of 17 your 9/29 notes, which is AM4889, and we're 18 talking about Exhibit 563B. Do you see 19 "Unencumbered Box" and then we have three 20 groupings? 21 A. On page 3, I see that. 22 Q. Okay. And then the first numbered 23 grouping is 1035 billion, right? 24 A. Yes. 25 Q. Then if you look back at Exhibit 564B,</p>	<p>1 M. Korycki 2 that's also the first grouping, right? 3 A. 564B, where are you referring to? 4 Q. 564B, first grouping under 5 "Unencumbered Box," number 1 is the 1035 6 billion, right? 1.035 billion? 7 MR. TAMBE: You mean the handwritten 8 circled one? Is that what you're referring 9 to when you say the first one? It's not the 10 first item there. 11 Q. The first enumerated, enumerated 12 number 1. 13 A. Oh, 1. 14 Q. Says number 1. 15 A. Okay. I see what you're referring to. 16 Q. So in your notes it says -- on your 17 9/29 notes it says "Unencumbered Box." The 18 enumerated item 1, "Friday, 9/19, 1.035 19 billion," and then in this lead sheet it says, 20 again, the first enumerated item under 21 "Unencumbered Box" is 1.035 billion. I assume 22 that's the same number, right? 23 A. Yes. 24 Q. So my question to you is just 25 whether -- and I think you'll see an enumerated</p>

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1 M. Korycki
2 item 3 in your notes is 984 and enumerated item
3 3 on 564B is also 984. So really what I'm just
4 asking you is, are these the same groupings in
5 564B as were discussed in the 9/29 meeting?
6 A. Yes, these are -- yes.
7 Q. Okay.
8 A. Wait. Let me rephrase. You say
9 "groupings." One refers to one to -- yes.
10 Q. Yes. And does this suggest to you
11 that one basis for your preparation of the lead
12 sheet was information gathered in the 9/29
13 meeting with Weil and the Lehman or former
14 Lehman executives?
15 MR. TAMBE: Objection to the form of
16 the question.
17 A. The meeting was not the basis for the
18 lead sheet. We had a handout at the meeting. I
19 don't remember -- recall if it was this exact
20 same lead sheet.
21 Q. Okay. So you actually handed out a
22 lead sheet at the meeting?
23 A. I don't know that it was -- we had one
24 page. I don't know that it was actually handed
25 out, yes.

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1 M. Korycki
2 A. Again, you say "understanding." I
3 was -- I don't -- I didn't have a full
4 understanding of -- that's how it was laid out
5 here. I didn't have a full understanding.
6 Q. Well, at the time of your marking up
7 this lead sheet, is it fair to say your
8 understanding was that the 1.035 billion fit not
9 within the repo collateral transferred but,
10 rather, in the unencumbered box assets?
11 A. Just --
12 MR. TAMBE: Objection to the form of
13 the question.
14 A. Can you ask your question again?
15 Q. Sure. At the time of this, when you
16 wrote your notes on the lead sheet, it was your
17 understanding that the 1.035 billion was part of
18 the unencumbered box assets being transferred to
19 Barclays, not part of the repo collateral?
20 MR. MILLS: Objection to form.
21 Q. Is that correct?
22 A. You're saying "understanding." I
23 didn't have an understanding that it should be
24 under "unencumbered box." I was probably told
25 to put it there and that's where it ended up.

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1 M. Korycki
2 Q. Well, so you don't recall now whether
3 it was handed out or not at the meeting?
4 A. We did have a lead sheet at the
5 meeting, yes.
6 Q. And did everyone have access to that,
7 or did Lehman people -- I mean Alvarez people
8 keep it to themselves?
9 A. I don't recall if it was handed out.
10 Q. Do you know if it was the lead sheet
11 that's reflected here and these are your notes
12 from the meeting put onto that lead sheet?
13 A. Again, I don't recall if this was -- I
14 don't recall.
15 Q. You recall you had a lead sheet there
16 that you were looking at in connection with the
17 meeting. It may or may not have been this lead
18 sheet?
19 A. That is correct.
20 Q. And is it your understanding that the
21 three groupings there were to make up the
22 unencumbered box assets that were to be
23 transferred to Barclays as part of the sale
24 transaction?
25 MR. MILLS: Objection to the form.

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1 M. Korycki
2 Q. Who are the people that could have
3 told you to do that?
4 A. Possibly Jim Fogarty.
5 Q. Anyone else comes to mind that would
6 have given you that kind of direction?
7 A. I don't recall. Maybe Al Lakhani.
8 Maybe Bill Fox. I don't recall.
9 Q. Looking further down on that page, do
10 you see where your handwritten notes say,
11 "Thursday, 42.9 billion reviewed by Barclays,
12 who revalue at 38 billion"?
13 A. I see that.
14 Q. Did I read that correctly?
15 A. Yes.
16 Q. And is that referring to the fact that
17 when Barclays actually got the \$43 billion,
18 approximately, in collateral transferred to it,
19 that it expressed opinion that those assets were
20 not really worth \$43 billion, but were worth
21 more like 38 billion?
22 MR. TAMBE: Objection to form.
23 MR. SHELLEY: Objection. Foundation.
24 A. This is a note that I took down. I
25 don't know -- have an understanding what it as

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<p>1 M. Korycki 2 referring to. 3 Q. So as you sit here today you have 4 absolutely no understanding of what this note 5 that Barclays revalued the 42.9 billion as 6 38 point -- 38 billion means, you have no 7 understanding what that means? 8 MR. TAMBE: Objection. Asked and 9 answered. 10 A. No. I just said it's a note I took 11 down. 12 Q. And you have no recollection of what 13 it's referring to at all? 14 MR. SHELLEY: Objection. Asked and 15 answered. 16 A. No. 17 Q. Now, this 42.9 and 38 billion dollar 18 delta, we'll call it, of the same numbers 19 referred to in your 9/29 notes, your meeting 20 with Weil and the former Lehman executives; is 21 that right? 22 A. What page are you referring to? 23 Q. Referring to page 4890 of Exhibit 24 563B. 25 MR. TAMBE: Objection to form.</p>	<p>1 M. Korycki 2 Go ahead. 3 Q. And that -- my question is simply, 4 that's the same -- those are the same numbers, 5 right, the 42.9 billion and the 38 billion? 6 A. They are the same numbers. Whether 7 they -- they're in conjunction with each other, 8 I mean, they're separate notes. I ... 9 Q. Do you think that might just be 10 serendipity? 11 MR. MILLS: Objection. 12 A. They are the same numbers, so ... 13 Q. I mean, you understand that's talking 14 about the same delta there, the same issue, 15 right? 16 MR. TAMBE: Objection to form. 17 A. Again, the 42.9 ties to the 42.9 and 18 the 38 ties to the 38. 19 Q. Right. And you understand that both 20 notes in the 9/29 and in Exhibit 564B on top of 21 your lead sheet, they're talking about the same 22 issue, correct? 23 A. These are the same topics, yes. 24 Q. Okay. And does this suggest to you 25 that the, at least your handwritten information</p>
Page 112	Page 113
<p>1 M. Korycki 2 on Exhibit 564B on the lead sheet was based upon 3 information learned at the 9/29 meeting? 4 MR. SHELLEY: Objection. Lacks 5 foundation. 6 A. I -- I don't know when -- when I 7 actually took this note. I don't know if it -- 8 what it was based off of. 9 Q. So this note could have been based 10 upon some other information about that delta; is 11 that right? 12 A. Again, I don't recall what the basis 13 of it was. 14 Q. Do you recall, does this refresh in 15 any way your recollection as to whether what 16 would have occurred earlier in time, your notes 17 on 564B or your notes in the 9/29 meeting notes, 18 563B? 19 A. I don't recall what took place first, 20 no. 21 Q. Do you recall any discussion about 22 this point, the delta in valuation between the 23 42.9 billion and the 38 billion? 24 A. I don't recall an exact. I know it 25 was -- I had notes on it, but I don't recall any</p>	<p>1 M. Korycki 2 exact discussions. 3 Q. Do you recall any general discussions 4 beyond the words in your notes? 5 A. I don't remember, no. 6 Q. Do you recall who you discussed, if -- 7 to the extent you discussed this, who you 8 discussed it with? 9 A. Could you just be more specific? 10 Discussing about what? 11 Q. Sure. Do you believe the note on 12 Exhibit 564B that says, "Thursday, 42.9 billion 13 reviewed by Barclays, who revalue at 38 14 billion"; do you recall who you would have 15 discussed that with? 16 MR. TAMBE: Objection to the form of 17 the question. 18 A. You're saying "discussed." I don't 19 know that I actually discussed it with anyone, 20 and I don't recall who would have said it and 21 why I would have wrote it down. 22 Q. You have no idea who said it and why 23 you wrote it down? 24 A. I don't recall who said it. 25 Q. Do you know why you made a note of it?</p>

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1 M. Korycki
2 A. I know it was probably an issue and I
3 wrote it down. That's ...
4 Q. Do you remember any more about that
5 issue?
6 A. No.
7 Q. Down below on 564B, below that note it
8 says, parentheses, "45 debt. 38 securities from
9 Barclays. 7 balance cash held for Barclays."
10 Am I reading that correctly?
11 A. The 7 billion?
12 Q. Yes, the "7 cash balance JPM held for
13 Barclays"?
14 A. Now you read it correctly, yes.
15 Q. Below that, does that say, "OCC -
16 exchange rate of derivatives, margin against
17 it"?
18 A. That's what it reads.
19 Q. And what is that referring to?
20 A. I don't know what it refers to.
21 Q. Do you recall having understanding
22 that the exchange rate derivatives and margin or
23 collateral associated with those derivatives was
24 being conveyed to Barclays as part of the sale
25 transaction?

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1 M. Korycki
2 Q. Let me show you a document previously
3 marked as 565B.
4 Is it Korycki or Korycski?
5 A. Korycki.
6 Q. Do you recognize Exhibit 565B?
7 A. Yes.
8 Q. And would you describe what it is,
9 please?
10 A. It's an e-mail I had sent out with
11 files for the meeting that we were having.
12 Q. What is the meeting that you're
13 referring to there, the APA Schedules Meeting,
14 what was the purpose of it?
15 A. Again, I didn't set up the meeting,
16 but it was to go through the supporting files
17 and the summary that we had prepared.
18 Q. And what was your -- what was the
19 purpose of preparing those files and the
20 summary?
21 MR. MILLS: Object to the form.
22 MR. TAMBE: Objection. Asked and
23 answered.
24 A. Just so clarify, I didn't prepare
25 these files. They were provided to me.

1 M. Korycki
2 MR. TAMBE: Objection to form.
3 A. I did not have an understanding, no.
4 Q. Do you have a different understanding
5 one way or the other?
6 A. No.
7 Q. Do you have any idea why you wrote
8 this note down?
9 A. No.
10 Q. You went on to work on the Derivatives
11 Team, right?
12 A. Excuse me?
13 Q. You went on to work on the Derivatives
14 Team for Alvarez, correct?
15 A. Correct.
16 Q. What did you do as part of the
17 Derivatives Team?
18 A. I work on the -- with the Live Trades
19 Group.
20 Q. Okay. Again, this would -- this note
21 would have been something you just wrote down
22 because you heard someone say it?
23 A. That is correct.
24 Q. And you don't know who said it?
25 A. I don't remember, no.

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1 M. Korycki
2 Q. Okay. Did you prepare the summary?
3 A. I prepared the summary, yes.
4 Q. And was the purpose of reviewing these
5 files part of the broader effort by Alvarez to
6 have a clear understanding of the transaction
7 and what assets and liabilities went over and
8 what didn't?
9 MR. TAMBE: Objection to the form of
10 the question.
11 A. Again, I -- I did not set up -- I
12 don't know exactly what the meeting was for.
13 Q. But the general work stream -- I mean,
14 you're working, doing substantial work putting
15 together these things. The purpose of it was, I
16 mean, I assume it's not -- I mean, is it for the
17 purpose of -- I think the goal stated earlier
18 about trying to understand what assets and
19 liabilities went over as part of the transaction
20 and what didn't? If it's not for that purpose,
21 what other purpose was it?
22 MR. TAMBE: Objection to the form of
23 the question.
24 A. So the files were to try and figure
25 out what went over to Barclays, but I ...

1 M. Korycki
2 Q. Okay. What went over to Barclays as
3 part of the sale transaction and what didn't?
4 A. But I don't know that these -- let me
5 back up. I don't know that these exact -- this
6 is exactly what went over to Barclays. These
7 are the files that were provided to me.
8 Q. I understand. And the basis of your
9 understanding would have been from a variety of
10 sources, including meeting with 9/29 or any
11 discussions or documents from Weil Gotshal,
12 correct?
13 MR. TAMBE: Objection to form.
14 A. Can you repeat that?
15 Q. We'll just move on.
16 A. Okay.
17 Q. Who was attending the -- were all the
18 people on this list who attended the APA
19 Schedules Meeting tomorrow, where it says
20 "tomorrow"?
21 A. Jim Fogarty was there. Bill Gordon.
22 No, it -- Jim Fogarty was there. No, those
23 weren't all the people that were at the meeting.
24 Q. Was anyone from Weil at the meeting?
25 A. Rod Miller.

1 M. Korycki
2 Q. Okay. Do you know whether the -- so
3 you're saying it may have occurred, what we've
4 been referring to as the 9/29 meeting may have
5 occurred on 9/30?
6 A. That is correct.
7 Q. Okay. So is the lead sheet that is
8 attached to your e-mail of 9/29, is that the
9 lead sheet that you marked up in Exhibit 564B?
10 A. Yes, it is.
11 Q. So does that indicate to you that the
12 564B handwritten markups would be based upon
13 information learned at the APA Schedules Meeting
14 with Weil and former Lehman executives?
15 A. It could have been. I don't recall
16 exactly when these notes were taken.
17 Q. Do you believe it would have been in
18 this general time period of 9/29 or 9/30 of
19 2008?
20 A. It would have been around that time
21 period.
22 Q. How are you doing break-wise? Do you
23 want to take a short break?
24 MR. THOMAS: It might make sense to
25 take a short break.

1 M. Korycki
2 Q. Okay. Now, Lori Fife and Robert
3 Messineo are also sent this information. Do you
4 know if they were there also?
5 A. Again, I don't recall if Lori dialed
6 in.
7 Q. And this would be a meeting the day
8 after the meeting with Weil and former Lehman
9 folks on the 29th, correct?
10 A. You know, you keep -- I had "9/29"
11 written here on these -- I refer back to 563B.
12 These were the -- this was -- these -- we did
13 have these documents at the meeting that -- we
14 keep referring to this 9/29 meeting, but I
15 believe I had the date wrong on that, on those
16 notes, possibly.
17 I'm looking at this e-mail on 565B
18 now, which says 9/29, but I'm referring to the
19 meeting the next day.
20 Q. You think the meeting we're discussing
21 was the same meeting as the APA Schedules
22 Meeting?
23 A. Yes.
24 Q. Are you sure of that?
25 A. Yes.

1 M. Korycki
2 MR. TAMBE: That's fine.
3 THE VIDEOGRAPHER: The time is 12:29
4 P.M. We're going off the record.
5 (Recess.)
6 THE VIDEOGRAPHER: The time is 12:38
7 P.M. We're back on the record. Video
8 number 3.
9 BY MR. THOMAS:
10 Q. Let me show you a document that was
11 previously marked as 463B. Have you ever seen
12 that document before?
13 A. Page 1 of 2 and 2 of 2 I have not seen
14 before.
15 Q. Do you recognize the attachments?
16 A. The attachments 1 through 5 I do
17 recognize, yes.
18 Q. Can you describe what those
19 attachments are, please?
20 A. Page 1 is a lead sheet. Page 2 I had
21 data-sorted the Fed Settled and DTC Settled file
22 and just put the summary by type, the summary by
23 type and the amount. Page 3 is another file
24 called "Friday Transfers" and I just did a data
25 sort of that file and put a summary of by type

1 M. Korycki
2 and the amount.
3 Page 4 is the 636 collateral file. I
4 just reformatted so that it would print
5 properly. Page 5, the DTC 074 File and 636
6 Available Collateral File, I just data-sorted
7 and did a summary by type and put the -- and
8 linked it to the amounts here.
9 Q. So these exhibits to 463B are
10 documents that you prepared?
11 A. I prepared all of them except page 4.
12 This file was provided to me. All I did was
13 reformat it to print properly.
14 Q. Okay. You described the first page of
15 the attachments. The title says "Lehman
16 Holdings/Barclays Transaction" and it has a
17 column of assets and liabilities. You described
18 that as a lead sheet, I believe.
19 It looks a little different than the
20 lead sheets we were looking at in the last two
21 exhibits, 564B and 565B. Is -- so you still
22 call it a lead sheet, the first attachment to
23 463B?
24 A. I misspoke. It's -- I wouldn't call
25 it a lead, no.

1 M. Korycki
2 to each other.
3 Q. Would you have been told by somebody
4 at Alvarez?
5 A. I worked with some people at Alvarez
6 to put this together, yes.
7 Q. Okay. When you say you were told,
8 you're not sure who? It would have been
9 somebody at Alvarez like Jim Fogarty?
10 A. Again, I don't remember. It was a
11 while ago.
12 Q. It wouldn't have been somebody outside
13 Alvarez, right?
14 A. It would have been A&M, Alvarez.
15 Q. Okay. And you wrote, "Negotiated Mark
16 Haircut." Does that refer to Barclays thinking
17 that the -- by the time they received the
18 collateral, the marks were stale or otherwise
19 inaccurate and were worth about \$5 billion less?
20 MR. TAMBE: Object to the form of the
21 question.
22 A. Again, I don't have an understanding
23 of what it meant. I just typed this up.
24 Q. You typed this up without having any
25 understanding of what either "negotiated mark

1 M. Korycki
2 Q. Is this an effort at a balance sheet?
3 A. It would be a balance sheet, yes.
4 Q. Okay. But this is a balance sheet
5 that you prepared?
6 A. I typed it up.
7 Q. Did someone handwrite out the numbers
8 and give them to you or feed them to you in some
9 way? What do you recall about the process of
10 creating this sheet?
11 A. I did work with someone. I don't
12 recall exactly who helped me prepare it.
13 Q. Under "Assets" you have a line that
14 says "Repo Assets," 38-billion-007, then you
15 have "Negotiated Mark Haircut" and then you have
16 "Assets Transferred Under Repo ('Stale' Marks),"
17 "stale" being in quotes, "33 billion," do you
18 see that?
19 A. I see that, yes.
20 Q. Is this the same \$5 billion valuation
21 delta that we saw in your earlier notes?
22 MR. TAMBE: Objection to the form of
23 the question.
24 A. Again, I was -- I was told what to put
25 here. I don't know if those two numbers refer

1 M. Korycki
2 haircut" means or what "stale mark" means?
3 MR. SHELLEY: Objection. Asked and
4 answered.
5 A. I did not have an understanding of
6 what "negotiated mark haircut" or "stale marks"
7 meant.
8 Q. Did you ask somebody about it?
9 A. There was a lot going on. I don't
10 recall if I inquired about it.
11 Q. Okay. And you think someone other
12 than you came up with those terms, "negotiated
13 mark" and "stale marks"?
14 MR. SHELLEY: Objection. Foundation.
15 A. I did not come up with these terms.
16 Q. Okay. And you don't know who did?
17 A. No.
18 Q. Do you have any reason to believe the
19 \$5 billion reflected in your "Assets" column
20 there next to "Negotiated Mark Haircut" is
21 different in any way than the \$5 billion
22 valuation differential referenced in your notes
23 that are under the date of September 29?
24 MR. SHELLEY: Objection.
25 MR. TAMBE: Objection to form.

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<p>1 M. Korycki</p> <p>2 Q. Ms. Korycki, isn't it true that it was</p> <p>3 explained to you and others at Alvarez by former</p> <p>4 Lehman executives who worked on the transaction</p> <p>5 that there was this valuation difference that</p> <p>6 came up as part of the sale transaction where</p> <p>7 Barclays believed there were stale Lehman marks</p> <p>8 and valued those assets that were transferred at</p> <p>9 about 38 billion as opposed to 43 billion,</p> <p>10 creating a valuation difference, at least</p> <p>11 against the marks of Lehman, of about \$5 billion</p> <p>12 and that is simply what you're reflecting in</p> <p>13 your draft balance sheet that you prepared as</p> <p>14 part of 463B?</p> <p>15 MR. SHELLEY: Objection to the form of</p> <p>16 the question.</p> <p>17 MR. MILLS: Object to the form.</p> <p>18 A. Again, this 463B, I worked with</p> <p>19 someone else to prepare this. This wasn't my --</p> <p>20 I didn't come up with this myself.</p> <p>21 Q. So it's your testimony that you're not</p> <p>22 aware if that's the same \$5 billion that were</p> <p>23 being described to you in the meeting with</p> <p>24 former Lehman executives and Weil Gotshal?</p> <p>25 MR. TAMBE: Objection to form.</p>	<p>1 M. Korycki</p> <p>2 A. Again, I don't know that the two --</p> <p>3 what was taken in my notes at the meeting and</p> <p>4 this 5 are the same.</p> <p>5 Q. You have no belief one way or the</p> <p>6 other as to whether it's the same?</p> <p>7 MR. SHELLEY: Objection. Asked and</p> <p>8 answered.</p> <p>9 A. I'm not going to make an assumption.</p> <p>10 Q. In the right-hand column under</p> <p>11 "Liabilities" you see the entry that says "Net</p> <p>12 'Book' Loss," 3.27 billion?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean by that?</p> <p>15 A. The terminology is what someone had</p> <p>16 instructed me to put there. I didn't have a</p> <p>17 meaning -- I don't have a meaning behind it.</p> <p>18 Q. You have no idea what "Net 'Book'</p> <p>19 Loss" means in your balance sheet that you</p> <p>20 prepared?</p> <p>21 A. Again, I was told -- that was -- it</p> <p>22 was a plug number and this was the title that I</p> <p>23 was given to it.</p> <p>24 Q. Is your understanding that -- was your</p> <p>25 understanding that that was the amount by which</p>
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<p>1 M. Korycki</p> <p>2 assets being sold exceeded liabilities being</p> <p>3 assumed by Barclays?</p> <p>4 MR. TAMBE: Objection to the form of</p> <p>5 the question.</p> <p>6 A. From what I recall, it was a plug</p> <p>7 number to get my assets and liabilities to tie.</p> <p>8 Q. Meaning that would be the difference</p> <p>9 between the assets conveyed and the liabilities</p> <p>10 assumed?</p> <p>11 A. It's basically taking what we had</p> <p>12 totaling the assets and what we -- what was on</p> <p>13 the liability side and plugging that to get your</p> <p>14 liabilities to tie.</p> <p>15 Q. To your knowledge, did anyone raise</p> <p>16 any concern about or issue or question about the</p> <p>17 fact that there may have been a net book loss</p> <p>18 associated with the transaction?</p> <p>19 A. I don't recall any specific</p> <p>20 conversations.</p> <p>21 Q. Let me go ask you to look back at</p> <p>22 Exhibit 579A. Midway through there, there's a</p> <p>23 reference to \$5 billion. It says 52.4 billion</p> <p>24 minus \$5 billion equals 47.4 billion. Do you</p> <p>25 see that?</p>	<p>1 M. Korycki</p> <p>2 A. Yes.</p> <p>3 Q. Do you know if this \$5 billion that</p> <p>4 you wrote down there that's being subtracted</p> <p>5 from 52.4 billion is the same \$5 billion delta</p> <p>6 in valuation that was discussed in the meeting</p> <p>7 with Lehman and Weil folks, former Lehman and</p> <p>8 Weil folks?</p> <p>9 MR. SHELLEY: Objection to the form of</p> <p>10 the question.</p> <p>11 A. Again, I don't know that that was the</p> <p>12 same 5 billion.</p> <p>13 Q. Do you believe it to be the same 5</p> <p>14 billion?</p> <p>15 MR. TAMBE: Objection to form.</p> <p>16 A. I'm not going to assume. I don't know</p> <p>17 that it was the same 5 billion.</p> <p>18 Q. I understand. I hear you're saying</p> <p>19 you don't know it and I understand you're not</p> <p>20 going assume it. Do you have a belief as to</p> <p>21 whether it's the same 5 billion?</p> <p>22 MR. TAMBE: Objection to form. Lack</p> <p>23 of foundation.</p> <p>24 A. I don't know that it was the same 5</p> <p>25 billion.</p>

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<p>1 M. Korycki</p> <p>2 Q. You won't answer the question of</p> <p>3 whether you believe it's the same 5 billion?</p> <p>4 MR. TAMBE: She answered the question.</p> <p>5 A. I think I've answered. I said I'm not</p> <p>6 going to assume.</p> <p>7 Q. You're not going to assume. You don't</p> <p>8 know. Do you believe it to be the same 5</p> <p>9 billion?</p> <p>10 A. I think -- did I not -- am I not</p> <p>11 answering correctly or --</p> <p>12 MR. TAMBE: It's not the answer he</p> <p>13 wants, evidently, but I think you've</p> <p>14 answered the question.</p> <p>15 Q. Very simple question: As you sit here</p> <p>16 today, do you believe that to be the same \$5</p> <p>17 billion number?</p> <p>18 A. Again, I'm not -- I'm not going to</p> <p>19 assume.</p> <p>20 Q. I'm not asking you to assume, just</p> <p>21 what your belief is.</p> <p>22 MR. TAMBE: Object to the form.</p> <p>23 A. I'm not going to assume that it's the</p> <p>24 same number.</p> <p>25 Q. So you won't answer whether you</p>	<p>1 M. Korycki</p> <p>2 believe that to be the same number or not?</p> <p>3 A. No.</p> <p>4 Q. No, you won't answer?</p> <p>5 A. I think I've already answered it by</p> <p>6 saying I'm not going to assume that it's the</p> <p>7 same number.</p> <p>8 Q. You understand that I'm not asking you</p> <p>9 to assume anything. I just want your belief as</p> <p>10 you sit here today, and the question is do you</p> <p>11 believe it's the same number?</p> <p>12 MR. TAMBE: Mr. Thomas, you are asking</p> <p>13 her the same, because she's already told you</p> <p>14 her knowledge or lack thereof, so at this</p> <p>15 point all you're doing is asking her to</p> <p>16 guess.</p> <p>17 Q. I understand you don't know for</p> <p>18 certain and I understand you're not going</p> <p>19 assume. I'm not asking you to do that. I'm</p> <p>20 just asking you a very simple question: Do you,</p> <p>21 as you sit here today, do you believe that's the</p> <p>22 same \$5 billion number?</p> <p>23 MR. SHELLEY: Objection.</p> <p>24 Argumentative.</p> <p>25 A. Again, I'll go back to your -- I'm not</p>
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<p>1 M. Korycki</p> <p>2 going to answer that then. I already said I'm</p> <p>3 not going to assume.</p> <p>4 Q. Let me show you a document previously</p> <p>5 marked as Exhibit 494. Do you recognize this</p> <p>6 document?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Would you describe what it is, please?</p> <p>9 A. The first page is an e-mail that was</p> <p>10 sent out for a meeting that was supposed to</p> <p>11 happen. If I recall correctly, this meeting</p> <p>12 never actually happened.</p> <p>13 Q. What was the meeting that was supposed</p> <p>14 to happen?</p> <p>15 A. Based on the subject, it was a meeting</p> <p>16 with Paolo Tonucci to go through the -- the</p> <p>17 attachment.</p> <p>18 Q. How many times did you meet Paolo</p> <p>19 Tonucci?</p> <p>20 A. Maybe twice.</p> <p>21 Q. And how many times did you meet Alex</p> <p>22 Kirk?</p> <p>23 A. I think once.</p> <p>24 Q. Did you ever meet Jim Seery?</p> <p>25 A. I don't believe so.</p>	<p>1 M. Korycki</p> <p>2 Q. And what was the -- what was the</p> <p>3 purpose of the meeting that was scheduled with</p> <p>4 Paolo Tonucci?</p> <p>5 A. To go through this document.</p> <p>6 Q. And who prepared this document, the</p> <p>7 attachment to 494?</p> <p>8 A. All the pages except for page 5 I</p> <p>9 prepared in conjunction with other A&M people.</p> <p>10 Page 5, again, was just a reformatting of the</p> <p>11 file that I had received.</p> <p>12 Q. And the information contained in</p> <p>13 Attachment A, Recap of the Week Ended 9/19,"</p> <p>14 which is AM3877. What was -- where did you get</p> <p>15 your information to prepare this?</p> <p>16 A. I worked with two other A&M -- A&M,</p> <p>17 Alvarez, MDs who helped me prepare this.</p> <p>18 Q. What are MDs?</p> <p>19 A. Excuse me?</p> <p>20 Q. Did you say MDs?</p> <p>21 A. Oh, managing directors.</p> <p>22 Q. And who were they?</p> <p>23 A. Bill Fox and Al Lakhani.</p> <p>24 Q. Do you know where they got information</p> <p>25 about the events of that week?</p>

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<p>1 M. Korycki</p> <p>2 A. I don't. I don't recall.</p> <p>3 Q. Under "Wednesday, 9/17," the first</p> <p>4 line says, "As of Wednesday, 9/17, the Fed had</p> <p>5 loaned Lehman \$45 billion in exchange for 48</p> <p>6 billion in collateral." Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know what the -- where the \$48</p> <p>9 billion valuation comes from?</p> <p>10 A. No. Again, I don't recall where any</p> <p>11 of the source information for this document came</p> <p>12 from.</p> <p>13 Q. Under "Thursday" you have a Footnote</p> <p>14 (a) there that says, "42.9 billion as part of</p> <p>15 the 9/19 Friday transfers of 43.07 billion," and</p> <p>16 then it cites something called "Lehman</p> <p>17 Holdings/Barclays Transaction Recap." Do you</p> <p>18 see that?</p> <p>19 A. Yes.</p> <p>20 Q. What is the document you're citing</p> <p>21 there?</p> <p>22 A. I don't recall. I don't recall what</p> <p>23 that document is.</p> <p>24 Q. Under "Notes" further down in the</p> <p>25 second line, the first note there, it says,</p>	<p>1 M. Korycki</p> <p>2 references that "LBHI's claims against JPM may</p> <p>3 continue to grow," do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know what that's referring to?</p> <p>6 A. No, I don't.</p> <p>7 Q. Two lines down it says, "JPM demanded</p> <p>8 broader and deeper set-off agreements and more</p> <p>9 collateral that over time accumulated to</p> <p>10 approximately 17 billion." Are you familiar</p> <p>11 with that issue, JPM demanding broader and</p> <p>12 deeper set-off agreements?</p> <p>13 A. No, I'm not.</p> <p>14 Q. Can you describe what the chart at the</p> <p>15 bottom of the page reflects? It says "Cash to</p> <p>16 Lehman," "Collateral."</p> <p>17 A. Other than reading it to you, I -- I</p> <p>18 don't remember. If you want me to read it for</p> <p>19 you, I can, but I think you can do it yourself.</p> <p>20 Q. That's okay. But you don't have any</p> <p>21 understanding of what you're trying to reflect</p> <p>22 by including this in the document?</p> <p>23 A. I don't remember.</p> <p>24 Q. How was this document used?</p> <p>25 MR. TAMBE: Object to the form of the</p>
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<p>1 M. Korycki</p> <p>2 question.</p> <p>3 Q. The document being the attachment to</p> <p>4 494.</p> <p>5 MR. TAMBE: Same objection.</p> <p>6 A. You're asking me how it was being --</p> <p>7 how it was used?</p> <p>8 Q. Yes. Do you know if it was used for</p> <p>9 anything? Was it sent to somebody? Was it used</p> <p>10 by Alvarez for some reason?</p> <p>11 MR. SHELLEY: Objection to form.</p> <p>12 A. I don't know. I don't know what it</p> <p>13 was actually used for.</p> <p>14 Q. Looking at Attachment C under</p> <p>15 "Exhibits," down towards the bottom, at the top</p> <p>16 it says Securities Transferred Under Barclays</p> <p>17 Repo Agreement." Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you see at the bottom you have</p> <p>20 backed out the 1.035 billion from that?</p> <p>21 A. I see that.</p> <p>22 Q. Why did you do that?</p> <p>23 A. I was told to do it.</p> <p>24 Q. Do you know the reason you were told</p> <p>25 to do it?</p>	<p>1 M. Korycki</p> <p>2 A. I don't know.</p> <p>3 Q. Is it your understanding that that</p> <p>4 wasn't part of the repo collateral, that was</p> <p>5 instead part of the unencumbered or clearance</p> <p>6 box assets?</p> <p>7 MR. SHELLEY: Objection to form.</p> <p>8 A. Again, I don't have an understanding.</p> <p>9 I was -- I was just told to do it.</p> <p>10 Q. And having seen those, all the</p> <p>11 unencumbered notes, the 1, 2, 3, with this being</p> <p>12 number 1, this amount, does that refresh your</p> <p>13 recollection in any way as to why you -- why you</p> <p>14 were directed to back out the 1.035 billion from</p> <p>15 the list of Barclays repo collateral?</p> <p>16 MR. TAMBE: Objection to form. Asked</p> <p>17 and answered.</p> <p>18 A. No, I think I covered that. I</p> <p>19 don't -- I was told to do this; that's why I</p> <p>20 subtracted it from there.</p> <p>21 Q. Okay. Let me show you a document</p> <p>22 previously marked as 461A. Do you recognize</p> <p>23 this document?</p> <p>24 A. Yes.</p> <p>25 Q. Would you describe what it is, please?</p>

1 M. Korycki
2 A. It's a report to the Unsecured
3 Creditors Committee.
4 Q. And what was your involvement with
5 this document?
6 A. I think I covered this earlier, but I
7 would receive each of the slides from the asset
8 teams and put them -- compile them into one
9 document.
10 Q. Did you help prepare any of the
11 slides?
12 A. I may have typed up a few. I don't
13 recall exactly everything that I did on this
14 one.
15 Q. Did you attend the presentation of
16 this document to the Creditors Committee?
17 MR. SHELLEY: Objection. Foundation.
18 A. Yes.
19 Q. Was this document presented to the
20 Creditors Committee?
21 A. This document was presented, yes.
22 Q. Okay. And at this presentation, where
23 did it take place?
24 A. I believe it was at Weil's, Weil
25 Gotshal's offices.

1 M. Korycki
2 the presentation other than this document?
3 MR. TAMBE: Objection to the form of
4 the question.
5 A. The only -- we had -- I believe we did
6 have an agenda for the meeting. That would have
7 been it.
8 Q. And this document was distributed at
9 the meeting?
10 A. Yes.
11 Q. Was there a PowerPoint presentation,
12 too, or an overhead projector, or just handing
13 out the document and just discussing it?
14 A. There was a PowerPoint presentation.
15 Q. Was the content of the PowerPoint
16 presentation exactly the same as the document?
17 A. Yes.
18 Q. And when you say you might have typed
19 up some of these things, do you know if you
20 typed up any part of the "Significant
21 Transactions" section?
22 Let me direct you to more specific.
23 Page AM4531, you see some of the same numbers
24 there that you have on some of your other
25 documents. Did you have any role in preparing

1 M. Korycki
2 Q. And approximately how many people were
3 there at the presentation?
4 A. I don't want -- I don't recall.
5 Q. Approximately 30?
6 A. It was a room full of people. I don't
7 recall.
8 Q. And did you stay for the entire
9 presentation?
10 A. Yes.
11 Q. Did you listen to the presentation?
12 A. Yes.
13 Q. Did you take notes about the
14 presentation?
15 A. No.
16 Q. Did you notice whether any of the
17 other room full of people were taking notes?
18 A. I didn't. I don't recall.
19 Q. Are you aware whether anyone of the
20 room full of people took notes about the
21 presentation?
22 A. Again, I don't recall if anyone was
23 taking notes.
24 Q. Were there any other documents
25 prepared by Alvarez or Lehman in connection with

1 M. Korycki
2 this page of the presentation?
3 A. I don't recall if I typed it up.
4 Q. Beyond typing it up, did you -- did
5 you gather and provide the information or did
6 someone else do that?
7 A. No, someone else did that.
8 Q. And the -- under "Assets Purchased"
9 where it says "43.1 Billion Repo Assets - Book
10 Value per Lehman 'stale' marks, negotiated a \$5
11 billion reduction," do you see that?
12 A. I see it, yes.
13 Q. Is this the same \$5 billion delta
14 that's reflected in the balance sheet you
15 prepared?
16 A. Again, I'm not going to assume that
17 any of the numbers are ...
18 Q. So you don't know whether this is the
19 same \$5 billion reduction versus stale marks as
20 is referenced in your balance sheet?
21 A. If you could just direct me to what
22 exhibit again you're looking at?
23 Q. Sure. It is the attachment to Exhibit
24 463B. The balance sheet that you prepared
25 attached to 463B that says "Repo Assets,"

1 M. Korycki
2 "Negotiated Mark Haircut," and then "Assets
3 Transferred Under Repo ('Stale' Marks)" and has
4 the 43 billion, 38 billion and 5 billion, do you
5 understand -- is it your understanding that's
6 the same \$5 billion valuation delta that's being
7 referred to in the Creditors Committee
8 presentation?
9 A. I believe so, yes.
10 Q. And does -- has anything refreshed
11 your recollection as to whether the -- that \$5
12 billion delta valuation is the same \$5 billion
13 difference that was described to you in your
14 meeting with Weil and former Lehman executives
15 as reflected in your notes of that meeting?
16 A. No.
17 Q. Other than this valuation delta
18 between what is referred to here as stale marks
19 and the 38 billion, are you aware of any other
20 differences or deltas between Lehman marks and
21 values ascribed to those assets for purposes of
22 the CL transaction?
23 MR. TAMBE: Object to the form of the
24 question and foundation.
25 A. Again, I was merely compiling and

1 M. Korycki
2 write, "We had a meeting yesterday with FTI and
3 Houlihan. They are requesting the breakout of
4 the estimated cure amount of \$2.25 billion from
5 the Barclays transaction. Do you have the
6 detail behind the \$2.25 billion that we could
7 include as support to do our recap scenario."
8 Do you see that?
9 A. Yes.
10 Q. The first question is, this meeting
11 yesterday, which would be October 1, with FTI
12 and Houlihan, would that be the meeting
13 reflected in your one page of notes which is
14 Exhibit 579A?
15 A. Yes.
16 Q. And that makes sense timewise. The
17 meeting with Houlihan and FTI would have been a
18 day or two after the meeting with Weil and the
19 former Lehman executives about the details of
20 the Barclays sale transaction?
21 A. Yes. Just to refer -- you referred to
22 former Lehman executives. I don't know what
23 their title was at the time of the meeting.
24 Q. Right.
25 A. I wasn't --

1 M. Korycki
2 reformatting a lot of this data. I'm not aware
3 of anything else.
4 Q. Switching topics a little bit, did you
5 ever have occasion to investigate or do any
6 analysis of cure or other payment liabilities
7 associated with contracts as part of the sale
8 transaction?
9 MR. SHELLEY: Objection to the form.
10 A. Can you ask me the question again?
11 Q. Yes. It wasn't phrased very well.
12 Let me just start off with a document instead.
13 Let me show you a document we'll mark as 580A.
14 (Exhibit 580A, a document bearing
15 Bates Nos. AM004949 through 4950, marked for
16 identification, as of this date.)
17 Q. Do you recognize this e-mail chain?
18 A. Yes.
19 Q. This is an e-mail sent to you. At the
20 top, it's sent to you by Steve Cohn at Alvarez
21 on October 2, 2008?
22 A. Yes.
23 Q. The first, earliest in time e-mail in
24 the chain appears to be an e-mail from you to
25 Mr. Cohn also on October 2, 2008, where you

1 M. Korycki
2 Q. It's referring to Mr. Kirk and Mr.
3 Tonucci, and whether they were still technically
4 with Lehman or not with Lehman at the time,
5 they're either Lehman or former Lehman
6 executives.
7 A. Okay. I just wanted to clarify.
8 Q. That doesn't change any of your
9 earlier answers?
10 A. No. No.
11 Q. So, on October 1 you had this meeting
12 with FTI and Houlihan and you discussed a number
13 of things as reflected in your notes, and they
14 ask for further detail and a breakout of the
15 estimated cure amounts in connection with the
16 Barclays transaction, is that right? Just based
17 on what is said at AM4950.
18 A. Just to clarify, I don't know if they
19 asked for it or if it -- I don't recall how it
20 actually came up.
21 Q. When it says, "They are requesting the
22 breakout of the estimated cure amount of 2.25
23 billion," do you understand that to be referring
24 to FTI and Houlihan?
25 A. I'm reading that again. I would

1 M. Korycki
2 assume that it's FTI and Houlihan, yes.
3 Q. Going back to the first page of
4 Exhibit 580A, you seem to be tasked with finding
5 out more information about the cure amount and
6 the breakout and the backup detail behind it; is
7 that right?
8 A. That is correct.
9 Q. And what did you do to find out the
10 breakup and detail behind the estimated cure
11 amount associated with the Barclays transaction?
12 A. I don't recall exactly. I believe I
13 spoke to Bill Fox after I received this e-mail
14 on how to go about it.
15 Q. And do you recall how you ended up
16 going about it, investigating the cure amount?
17 A. I don't recall. No, I don't recall.
18 Q. I'm going to show you a document we'll
19 mark as 581A.
20 (Exhibit 581A, a document bearing
21 Bates Nos. AM4948, marked for
22 identification, as of this date.)
23 Q. Do you recognize this as an e-mail
24 from a Bill Fox at Alvarez to yourself dated
25 October 3, 2008?

1 M. Korycki
2 or --
3 MR. TAMBE: Objection. Argumentative.
4 Objection. Form.
5 A. I already said I did not speak to -- I
6 don't recall speaking to Patrick Costa. I don't
7 recall -- there was a lot going on at the time.
8 I don't recall any further work on this.
9 Q. Do you think this could have been just
10 dropped because there were other priorities at
11 the time?
12 MR. TAMBE: Objection to form.
13 A. Again, I don't recall any further work
14 that I did, if I did any further work on this.
15 Q. Do you recall whether anyone did any
16 further work on this at this time in October
17 2008?
18 A. I don't recall.
19 Q. Let me show you a document we'll mark
20 as 582A.
21 (Exhibit 582A, a document bearing
22 Bates Nos. FTI503 through 505, marked for
23 identification, as of this date.)
24 Q. Do you recognize this as an e-mail
25 chain among you and others in the October 14,

1 M. Korycki
2 A. Yes.
3 Q. And here Bill writes, "Please contact
4 Lehman/Barclays person who might have your
5 answer on cure amount - Patrick Costa." Did you
6 in fact contact Mr. Costa?
7 A. I don't recall contacting him, no.
8 Q. Do you recall talking to anyone about
9 this issue?
10 A. Other than Bill Fox and Al Lakhani, I
11 don't recall any conversations about it.
12 Q. Well, after being tasked with finding
13 the detail and breakout of the estimated cure
14 amount, can you identify any steps that you took
15 to find that information out?
16 MR. TAMBE: Object to the form of the
17 question.
18 A. I don't recall.
19 Q. Do you recall whether you did in fact
20 try to find out the requested information that
21 you were tasked with gathering?
22 A. I don't, I don't recall.
23 Q. Do you recall whether it may have --
24 you may have been -- I mean, if you were tasked
25 with doing this, wouldn't you have done it,

1 M. Korycki
2 October 15, 2008 time period?
3 A. Yes.
4 Q. Going back to the initial, earliest in
5 time e-mail in the chain, an October 14, 2008
6 e-mail from you to Conor Tully.
7 And again, who is Conor Tully?
8 A. He's with FTI.
9 Q. And FTI's role in this is what?
10 A. Advisors to the Creditors Committee.
11 Q. And you write about a conference call
12 regarding the assumption of vendor contracts; is
13 that right?
14 A. That is correct.
15 Q. And under the long e-mail from Conor
16 Tully on October 15 at 11:22 A.M., writing to
17 you, he mentions some of A&M's goals in
18 determining exactly what contracts are being
19 assumed and cure amounts being covered by the
20 Barclays sales transaction where he lists, "I
21 know A&M's goals are as follows: 1. Understand
22 what is being assumed and cured. Understand
23 what is -- 2. Understand what is not being
24 assumed to determine if the contract may be
25 needed by legacy Lehman. 3. Get a general

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<p>1 M. Korycki</p> <p>2 understanding of the contract universe to help</p> <p>3 further develop our understanding and define the</p> <p>4 services to be provided under the TSA."</p> <p>5 Is that consistent with your</p> <p>6 understanding of your work on determining which</p> <p>7 contracts had been assumed at this time?</p> <p>8 MR. TAMBE: Objection to form of the</p> <p>9 question.</p> <p>10 MR. SHELLEY: Objection to form.</p> <p>11 A. This e-mail relates to work that I did</p> <p>12 with our Contract Vendor Group to figure out</p> <p>13 what contracts could be rejected by Lehman.</p> <p>14 Q. As part of that effort, did you have</p> <p>15 occasion to first figure out what contracts had</p> <p>16 been assumed by Barclays and what hadn't in</p> <p>17 order to establish the universe of contracts</p> <p>18 that could or could not be objected -- rejected</p> <p>19 by Lehman?</p> <p>20 A. Could you just repeat your first part</p> <p>21 of the question, or repeat your question again?</p> <p>22 Q. Sure. As part of that effort, did you</p> <p>23 have occasion to first figure out what contracts</p> <p>24 had been assumed by Barclays and which hadn't in</p> <p>25 order to establish the universe of contracts</p>	<p>1 M. Korycki</p> <p>2 that could or could not be rejected by Lehman?</p> <p>3 MR. SHELLEY: Objection to form.</p> <p>4 A. Can you ask that a little -- I don't</p> <p>5 understand what you're asking.</p> <p>6 Q. Sure. I'm just, from your working --</p> <p>7 you're involved in a project involving vendor</p> <p>8 contracts, correct?</p> <p>9 A. Lehman had vendor contracts and --</p> <p>10 yes.</p> <p>11 Q. Right. And in order to, as part of</p> <p>12 your work with respect to vendor contracts and</p> <p>13 determining which ones might be rejected by</p> <p>14 Lehman and which ones might not, you first had</p> <p>15 to understand which contracts were being assumed</p> <p>16 by Barclays, correct?</p> <p>17 MR. TAMBE: Objection to form.</p> <p>18 Q. Because you couldn't reject one of</p> <p>19 those?</p> <p>20 MR. TAMBE: Same objection.</p> <p>21 A. Are you -- are you telling -- are you</p> <p>22 telling me or are you asking? I'm sorry.</p> <p>23 Q. I'm asking.</p> <p>24 A. The process -- in order to figure out</p> <p>25 what was left at the Lehman estate, we did have</p>
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<p>1 M. Korycki</p> <p>2 to figure out which ones were assumed by</p> <p>3 Barclays.</p> <p>4 Q. And Mr. Tully writes as one of the</p> <p>5 goals down in number 5, "It also seems that we</p> <p>6 should be shadowing Barclays' process of making</p> <p>7 assumption decisions with the goal of being up</p> <p>8 to speed on all of the contracts that Barclays</p> <p>9 chooses not to assume. We can then make quicker</p> <p>10 assessments of whether to immediately reject or</p> <p>11 continue to pay the contract. In the event that</p> <p>12 it is a contract we no longer need, we should</p> <p>13 reject it quickly to minimize the amount of</p> <p>14 administrative claims created."</p> <p>15 Did you disagree with anything that</p> <p>16 Mr. Tully was saying in there?</p> <p>17 MR. TAMBE: Objection to the form of</p> <p>18 the question.</p> <p>19 A. The first statement, "shadowing</p> <p>20 Barclays' process."</p> <p>21 Q. Well, did -- I'm sorry, were you</p> <p>22 finished?</p> <p>23 A. Yes.</p> <p>24 Q. The -- in an effort to minimize the</p> <p>25 administrative claims of the Lehman estate, did</p>	<p>1 M. Korycki</p> <p>2 you or A&M generally try to be in a position to</p> <p>3 quickly assess whether Lehman should reject or</p> <p>4 continue to pay contracts?</p> <p>5 MR. TAMBE: Objection. Form.</p> <p>6 Foundation.</p> <p>7 A. Can you repeat your question again?</p> <p>8 Q. Sure. As part of an effort to</p> <p>9 reduce -- it's a good thing to reduce Lehman's</p> <p>10 estate's administrative claims, correct, from</p> <p>11 the perspective of Alvarez and Lehman?</p> <p>12 A. Yes.</p> <p>13 Q. Do you agree with Mr. Tully's point</p> <p>14 that making quick assessments of whether to</p> <p>15 reject or continue a contract not assumed by</p> <p>16 Barclays made sense?</p> <p>17 A. No, I don't -- don't agree with that.</p> <p>18 Q. Why don't you agree with that?</p> <p>19 A. Well, quick assessments, the list, as</p> <p>20 you probably know, that was filed, the list of</p> <p>21 contracts that went over to Barclays did not</p> <p>22 have contract ID numbers on them, so we don't</p> <p>23 know exactly what contracts Tully went over --</p> <p>24 at the time, we did not know exactly what</p> <p>25 contracts went over to Barclays.</p>

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M. Korycki

Q. You had to find out further information about those contracts before you could make an assessment -- that the contracts -- well, the contracts that went over to Barclays you weren't going to reject, right?

A. That is correct. Let me just clarify. So if we had -- if Lehman had a contract with Vendor A and it was listed on -- Vendor A was listed as it was assumed by Barclays, well, under Vendor A, there may have been different -- there may have been 20 different contracts set up with Vendor A. So we don't know if they took all of them at the time or if they took two of them and they left the rest for Barclays. So it wasn't a quick -- you couldn't do a quick assessment.

Q. Was it your understanding there's kind of two buckets of contracts being assumed by Barclays, one bucket was the Closing Date Contracts which were listed as of a approximately September 18, 2008 before the deal even closed that were definitely going to be assumed by Barclays; are you aware of that bucket?

M. Korycki

A. Yes.

Q. And there's another bucket that Barclays had 60 days to decide whether to -- 60 days after closing to decide whether to assume or not, correct?

A. That -- I believe so, yes.

Q. Okay. And that second bucket of -- so obviously at this point in early October, Alvarez understood the first bucket of contracts that were assumed, the Closing Date Contracts, right? They had a list of those and they knew what the contracts were assumed by?

A. Again, I'm referring to -- I don't believe that there were contract ID numbers associated with all those contracts.

Q. Okay. So the Lehman list of Closing Date Contracts did not have detailed information about the contract numbers, is that what you're saying?

A. That is, right.

Q. In terms of the second bucket, what Mr. Tully seems to be saying is we should follow what decision Barclays is making with respect to which contracts it's going to assume and which

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M. Korycki

contracts it's not going to assume so that we can assess the ones it's not going to assume more quickly in the event that Lehman doesn't want to keep the contract, it wants to reject it; it makes sense to do that sooner rather than later to lower the administrative claims.

Does that make sense to you?

A. Yes, it makes -- I see what you're saying, yes.

Q. And so, you know, pursuant to Mr. Tully's, representative from the Creditors Committee's suggestion, did A&M or Lehman estate make efforts to keep track of or keep up to date on which contracts Barclays was assuming and which contracts they were not assuming?

A. Several efforts were made to keep up with that, yes.

Q. So, in roughly the October time period, Alvarez and Lehman had an understanding of what it would follow -- I mean, it could go on the Website and just see what contracts were being assumed and not assumed; is that right?

MR. TAMBE: Objection to form.

Q. Did you understand there was a Website

M. Korycki

put up where the contracts -- it was indicated whether the contracts were being assumed or not being assumed by Barclays?

A. Are you referring to the Epiq Website?

Q. Yes.

A. I'm familiar with the Epiq Website, yes.

Q. Okay. So that would show -- obviously, as of closing, that had the Closing Date Contracts, right?

A. It had the Closing Date Contracts listed, yes.

Q. And it had the cure amounts for those contracts, right?

A. I don't believe all the cure amounts were on there. I don't recall if all the cure amounts were on there.

Q. Okay. The -- and then the Epiq, at some point were they on there, all the cure amounts?

A. I know there was a mishap with the file that was, I believe, first filed and a second -- a second one.

Q. And there was a refile? There was a

1 M. Korycki
2 later refiling corrected and adjusted by about a
3 few million dollars -- or, I'm not sure how
4 much.
5 A. I don't recall how much it was
6 adjusted by.
7 Q. Okay. And do you know ballpark figure
8 about how many -- what the total cure amount
9 assumed by Barclays with respect to the Closing
10 Date Contracts?
11 A. I don't recall the number.
12 Q. Is it between 100 million and 200
13 million?
14 A. Again, I don't recall the number.
15 Q. Did you have access to the number at
16 the time?
17 A. At the time I did, yes.
18 Q. So, at the time you would have known
19 what it was, but you don't recall it as you sit
20 here today?
21 A. That is correct.
22 Q. Do you have a -- do you have a just
23 general sense of what the ballpark figure for
24 the amount of cure payments assumed by Barclays
25 in the second bucket, not the Closing Date

1 M. Korycki
2 lower than the estimated cure amount in your
3 October 2 e-mail that the Creditors Committee
4 representatives asked you to look into, did that
5 cause you any concern or cause you to take any
6 actions?
7 A. I don't remember what -- I don't
8 remember.
9 Q. You have no recollection of that, the
10 issue of there being a difference between the
11 estimated cure amounts and the actual cure
12 amounts, you don't recall that issue being
13 raised or discussed?
14 A. I know it was raised. I believe it
15 was raised. I don't recall.
16 Q. And you don't know if -- not just you,
17 but do you know if anyone pursued that issue any
18 further or looked into the difference between
19 the estimated potential exposure for cure and
20 the actual amounts of cure incurred?
21 A. Again, I don't know if anyone looked
22 into it.
23 MR. THOMAS: Why don't we take a short
24 break. I'm getting close to being done.
25 MR. TAMBE: Okay.

1 M. Korycki
2 Contracts, but the ones assumed in the 60-day
3 period after the closing?
4 A. I don't recall.
5 Q. Do you recall it being a small amount?
6 I mean, less, you know, less than 100 million?
7 A. Again, I don't recall.
8 Q. Is that the same thing where you would
9 have known that amount at the time, but
10 currently, you don't recall?
11 A. I knew it at the time. Currently, I
12 don't recall.
13 Q. Okay. So let's assume that those,
14 without getting into a whole bunch of documents,
15 let's assume that the actual cure amounts
16 assumed by Barclays were less than 200 million,
17 adding up both buckets.
18 So in October -- that's the same time
19 period, early October, we looked at October 2,
20 October 3, where you were tasked with looking at
21 the backup or detail of the estimated cure
22 amounts associated with the Barclays sales
23 transaction.
24 When you learned of the actual cure
25 amounts being taken by Barclays, which are much

1 M. Korycki
2 THE VIDEOGRAPHER: The time is 1:47
3 P.M. We're going off the record.
4 (Recess.)
5 THE VIDEOGRAPHER: The time is 1:56
6 P.M. We're back on the record.
7 BY MR. THOMAS:
8 Q. Looking back at Exhibit 582A in the
9 long e-mail from the Creditors Committee
10 representative, Conor Tully, to you, on the
11 second page up at the top, point number 2, he
12 says, "Our committee has inquired numerously
13 regarding the estimate of \$2 billion in cure
14 costs. I believe that statement was made on the
15 record in court. We wanted to understand if
16 that number has a basis. Also, the committee is
17 interested in understanding the total cost to
18 cure contracts under the Barclays transaction."
19 Do you recall, after the committee
20 saying that it wanted to understand if that
21 number had a basis, the cure cost number of \$2
22 billion, whether there was any further
23 discussion of this issue, either internally at
24 Alvarez or with the committee?
25 A. We did have discussions internally

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS Case No. 08-13555(JMP)
8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.
10

-----x
11
12

13 DEPOSITION OF UMA KRISHNAN

14 New York, New York

15 June 29, 2010
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17
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21
22

23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 31616

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<p>1 Krishnan 2 Schiller & Flexner on behalf of Barclays and 3 the witness. 4 BY MS. CARRERO: 5 Q. Ms. Krishnan, have you ever been 6 deposed before? 7 A. No. 8 Q. Perhaps it's best if we go over some 9 housekeeping rules that might make things 10 easier. If you would let me finish a question 11 before you answer, and I will try to do the same 12 thing. 13 A. Okay. 14 Q. And wait to pose another question 15 until you have finished your response. 16 If you feel like you need to take a 17 break at some point, I just ask that you finish 18 answering whatever pending question there is, 19 and if it's an appropriate time to break, we 20 will do so. 21 The court reporter needs verbal 22 answers to be able to take it down on the 23 record, so I ask that you give verbal responses 24 rather than nodding your head or the like. 25 A. Okay.</p>	<p>1 Krishnan 2 Q. So with that, let's begin. 3 What is your current title, 4 responsibilities and duties at Barclays? 5 A. I'm responsible for the GFS system at 6 this time. 7 Q. And -- 8 A. And I manage a team of four people. 9 Q. And what is your title? 10 A. It's assistant vice president. 11 Q. And do you have any other 12 responsibilities or duties other than for GFS? 13 A. No, that's about it. 14 Q. And what do those responsibilities and 15 duties entail? 16 A. We interact with the users to make 17 sure that they are happy with the data that the 18 system produces, you know, on day-to-day issues. 19 With the system we assist them with any changes 20 that they want, things like that. 21 Q. When you say the users, who are you 22 referring to? 23 A. Barclays users. 24 Q. And who are those Barclays users? 25 A. Product controllers and financial</p>
Page 8	Page 9
<p>1 Krishnan 2 controllers. 3 Q. Does Barclays currently use the GFS 4 system? 5 A. Yes, they do. 6 Q. And when did they begin using the GFS 7 system? 8 A. Probably somewhere in the end of 9 September 2008. I don't remember the exact 10 date, but around that time. After the 11 acquisition. 12 Q. Do you know if it replaced an existing 13 system at Barclays? 14 A. No, it was -- because they acquired a 15 lot of, you know, like the Lehman business, 16 they -- and GFS was still processing the data 17 from Lehman businesses, they decided to continue 18 to use GFS. 19 Q. You had mentioned that you were an 20 assistant vice president. Could you tell me of 21 what group? 22 A. Finance Technology. 23 Q. And when did you join Barclays? 24 A. I joined Barclays in end of September 25 of 2008 like everybody else from Lehman, so ...</p>	<p>1 Krishnan 2 Q. And who do you report to within 3 Finance Technology? 4 A. Right now I report to Daylas Fuentes. 5 Q. And Ms. Krishnan, I see that you have 6 notes in front of you. 7 MR. THOMAS: Go ahead and put those 8 away. 9 THE WITNESS: Okay. 10 Q. Were those prepared for purposes of 11 your testimony today? 12 A. I wanted to, you know, recall myself 13 because it's a long time back, so I just ... 14 Q. If we could just take one minute for a 15 second. 16 (Pause in the proceedings.) 17 Q. Ms. Krishnan, what did you do to 18 prepare for your deposition today? 19 A. We were just talking about the reports 20 that we made for -- for the attorneys. 21 Q. And did you -- 22 A. How we extracted them. 23 MR. THOMAS: If you're referring to 24 conversations with the attorneys, you don't 25 want to get in the substance of that because</p>

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<p>1 Krishnan 2 that's privileged. 3 THE WITNESS: Okay. 4 Q. Did you meet with your attorneys in 5 preparation for your deposition today? 6 A. Yes, we did. 7 Q. And did you meet with anybody else 8 other than your attorneys in preparation for 9 your deposition? 10 A. No. Anybody else? No. 11 Q. Did you speak to any former Lehman or 12 Barclays employees? 13 A. No. 14 Q. Did you prepare your notes yourself or 15 with the assistance of others? 16 A. I -- 17 MR. THOMAS: Objection to form. 18 Q. You can go ahead and answer. 19 MR. THOMAS: If you're asking about 20 the notes, she wasn't using them to answer 21 questions. She does not have them in front 22 of her. They were notes of conversations 23 taken with counsel. They're privileged. 24 MS. CARRERO: For now, we'll accept 25 that, and if need be, we'll follow up later.</p>	<p>1 Krishnan 2 Q. Prior to your employment at Barclays, 3 what was your position at Lehman Brothers? 4 A. I was part of a team called Run the 5 Bank. We were responsible for infrastructure 6 and day-to-day issues with the system, user 7 queries. 8 Q. And when you say the "system," are you 9 referring to only the GFS system? 10 A. Yes, primarily the GFS system, but we 11 were trying to get trained in other systems in 12 Finance Technology. 13 Q. And what other systems were you 14 getting trained in? 15 A. G Quest and a data system calls PALS, 16 P-A-L-S. 17 Q. And what is G Quest? 18 A. I didn't really know that much 19 because, you know, we were just starting to get 20 trained. It's a P&L system. 21 Q. Was it replacing an existing system? 22 A. No, it was a Lehman system. 23 Q. And what is PALS? 24 A. PALS was also a P&L system. 25 Q. Were they P&L systems for different</p>
Page 12	Page 13
<p>1 Krishnan 2 businesses of Lehman Brothers? 3 A. Yes, I think so. 4 Q. What is GFS? 5 A. GFS stands for Global Funding System. 6 It produced daily balances and P&L reporting for 7 use -- for product controllers and financial 8 controllers. 9 Q. And what were your day-to-day 10 responsibilities and duties with respect to GFS? 11 A. The day-to-day responsibilities 12 included making sure that the system is running 13 fine, without any issues, answering user 14 questions, user issues, infrastructure 15 responsibilities, anything to do with the 16 database, you know, any issues with the 17 database, fix -- reaching out to the right 18 person to fix them. 19 Q. And are those your same day-to-day 20 responsibilities for GFS in your current 21 position at Barclays as well? 22 A. I have more responsibilities now in 23 the sense that we are responsible for changing 24 anything in the system plus maintaining the 25 system.</p>	<p>1 Krishnan 2 Q. And when you say responsible for 3 changing anything in the system, what do you 4 mean? 5 A. Well, users want different 6 functionalities at different points in time, so 7 depending on what they want and whether it's 8 doable in the system, we make changes. 9 Q. And who are the users that would be 10 requesting such changes? 11 A. The users would be product controllers 12 and financial controllers. 13 Q. And with respect to maintaining the 14 system, what does that entail? 15 A. That we make sure they are rerun 16 batches, like automated batches, we make sure 17 that there are no failures and failures are 18 handled without affecting the numbers in the 19 system. 20 Q. And how do you do that? 21 A. It depends on what the problem is, so 22 depending on it could be like a data issue that 23 the system is not built to handle, we might -- 24 we might face something like that, or it could 25 be a very simple problem because the database</p>

Krishnan

was down or something, so it could be ...

Q. And who was responsible for changing and maintaining the system while you were at Lehman?

A. We were split into two groups. There was another group called Change the Bank or Build the Bank. I'm not sure, I don't remember who was the manager was for that system at that time.

Q. And the other group perhaps called Build the Bank was responsible for changing or maintaining the GFS system?

A. Changing. We were responsible for maintaining it. Run the Bank was responsible for maintaining.

Q. And what did it entail to maintain the system while you were at Lehman?

A. The same things that we do now, like the system issues, any batch job failures, you know, and answering user questions.

Q. Were user questions about the technology itself?

A. The use -- sometimes the users think that the numbers should be some way, and if it's

Krishnan

different, they just need an explanation on why the system generated that number. So, you know, we look at the code and tell them what exactly it does. Sometimes the users may be new and they don't know what's going on so they may ask questions. Sometimes it could be just user training.

Q. Did you or your group have any responsibility for the actual numbers input into GFS?

A. No, we did not have any.

Q. I should say did you or your group have any responsibility for the numbers input while you were at Lehman?

A. No, we did not have any responsibility towards that.

Q. Is that the same answer in your current position at Barclays?

A. Yes, that's correct.

Q. And do you or your group have any responsibility for generating any of the financial reports that might come from GFS while you were at Lehman?

A. No. Users had access to our -- we had

Krishnan

like a graphical user interface and they would run the reports themselves. They did not come to us for the reports.

Q. And is that the same answer in your current position at Barclays?

A. Yes, that's correct.

Q. Are you familiar with the reports that were run from GFS while you were at Lehman?

MR. THOMAS: Objection to form.

You can answer.

A. Yes. I'm sorry, what was the question again?

Q. Were you familiar with the types of reports that were run from GFS while you were at Lehman?

A. To some extent, yes, but there were a lot of reports, so I -- I probably was familiar with some of the reports, but there's like a whole lot of reports.

Q. And which reports would you have been familiar with?

A. All the reports were built off tables in the system. So, you know, we had a very user-friendly environment in which we could go

Krishnan

and click on the report to see what table it's based off. So I don't remember any of the report names off the top of my head, but if the user sees this report, I could go and find out what it is.

Q. Would you know the report paths that used to generate any given report?

A. I'm sorry?

Q. Would you be familiar with the report paths that would be used to generate any given report?

A. Yes, I would know how the report is getting generated.

Q. Is that a query that you can put into GFS in order to generate the report that you want?

A. Yes, you can put a query to generate the report.

Q. And is the GFS system that's used by Barclays today identical to the one that was used at Lehman?

A. It is identical, yes, but it has a lot of -- I mean, it has some changes post the Barclays acquisition.

1 Krishnan
2 Q. And what would those post-acquisition
3 changes be?
4 A. Changes because GFS had this
5 functionality to net down, so they wanted to net
6 down, meaning like it would net the longs with
7 the shorts. So they wanted to prevent any net
8 down happening between Barclays and these Lehman
9 entities, so that was one of the main changes
10 that they made.
11 Q. And would those changes have been made
12 only for prospective periods of time or was it a
13 retroactive change to the system?
14 A. It -- I don't remember exactly when
15 the change was made, but it was sometime around
16 the end of September that change was made. So
17 we split Barclays entities from the Lehman
18 entities.
19 Q. And that split would happen for only
20 future dates?
21 A. Yes, that's correct.
22 Q. How many people were there in the Run
23 the Bank group at Lehman?
24 A. Probably ten to twelve, or maybe more
25 globally. I don't remember the exact number.

1 Krishnan
2 transferring files from one place to another, so
3 that's the mechanism by which the files were
4 transferred from those source systems to GFS.
5 Q. And the systems that would transfer
6 into GFS, what type of systems are they?
7 A. They are -- most of them are
8 settlement systems.
9 Q. And are there different settlement
10 systems for the various different product
11 classes?
12 A. I think so.
13 Q. Would prices for any given security be
14 entered directly into GFS or into another system
15 that would then flow into GFS?
16 A. It usually flows into GFS. The only
17 way a price could be entered in GFS is by a user
18 if he were -- he or she were to make like an
19 adjustment.
20 Q. What would be the process in order to
21 make an adjustment within GFS?
22 A. There was a specific set of users who
23 have access to adjustments in GFS and the users
24 are trained on, you know, how to make the
25 adjustments on like what security and what

1 Krishnan
2 Q. And who did you report to while in
3 that group at Lehman?
4 A. While I was at Lehman, I reported to
5 Daylas also. Daylas Fuentes.
6 Q. And do you know who -- Mr. Winters did
7 you say?
8 A. Fuentes. Daylas Fuentes.
9 Q. Fuentes, do you know who he reported
10 to?
11 A. She reported to Dan Marcus.
12 Q. What systems flow into GFS?
13 MR. THOMAS: Objection to form.
14 A. ITS, MTS, Loan I.Q., TMS. I might
15 miss a few because there's a whole lot of
16 systems. That's one of the -- some of the main
17 systems.
18 Q. Perhaps we should back up. Could you
19 explain to me how the GFS system is set up to
20 receive feeds from other systems?
21 A. We receive most of the feeds through
22 FTP, File Transfer Protocol, FTP.
23 Q. And other systems feed into FTP which
24 then feeds into GFS; is that correct?
25 A. No. FTP is just a means of

1 Krishnan
2 account.
3 Q. And who would those users be that
4 would have access to make adjustments?
5 A. I don't remember the users now.
6 Q. Within GFS, can you tell if any
7 adjustment has been made to the price of any
8 given security?
9 MR. THOMAS: Objection to form.
10 THE WITNESS: I'm sorry.
11 MR. THOMAS: You can answer, if you
12 can.
13 A. Yes, I'm sorry, I forget the question.
14 Q. Sure. I'll repeat that for you.
15 Within GFS, can you tell if any
16 adjustment has been made to the price of any
17 given security?
18 A. Yes, there were a lot of adjustments
19 made.
20 Q. Is there an indication within GFS when
21 an adjustment is made?
22 A. We have -- we capture the adjustments
23 in a table which has like the user ID who made
24 the adjustment and what it was adjusted to the
25 security and the account.

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Q. Would it show up as an additional column if you were to run a GFS report?

A. No, it would modify the existing -- if it's a price adjustment, it would modify the existing column that was holding that position.

Q. And so if you wanted to see if any adjustment had been made to that value, how would you do that?

A. You mean like if the adjustment was applied or was actually processed through the system?

Q. Yes.

A. You would -- I would go to that account and security and I would check if it has the price that it was supposed to be adjusted to.

Q. And would it tell you the date which it -- on which it was adjusted?

A. Yes, it would tell the date.

Q. And would it tell you what had previously been entered on that date prior to adjustment?

A. I think it holds -- I'm not sure about this -- I think it holds just the price that it

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was at the start of the day and then, you know, if a price was adjusted twice, I don't know if it will hold both the prices.

Q. So just to make sure I'm understanding correctly, when an adjustment is made, you're not sure whether the previous price prior to the adjustment would be recorded somewhere; is that correct?

A. Right.

Q. Do you know what GFS captures in terms of value?

A. Meaning?

MR. THOMAS: Objection to form.

Q. Let me see if I can make that clearer. Do you know what GFS is capturing with respect to the value of any given security that can be found in the system?

MR. THOMAS: Objection to form.

A. I think what it does is it presents the trade date balances and the settlement date balances for any given date.

Q. What do you mean by "balances"?

A. By balances, I mean like what the -- what an account was holding at the end of the

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day.

Q. How about any given security within an account, do you know what value for a security is being recorded?

MR. THOMAS: Objection to form.

A. You mean market value? I don't understand the question.

Q. That's my question to you, is what is GFS capturing with respect to any given security?

A. It would have the market value of the security and for the security and the account.

Q. And that market value for any given security within GFS would flow in from a settlement system; is that correct?

A. No, the settlement system would send us the quantity and the price in most cases, and we would calculate the market value.

Q. And the market value would be calculated using the price and the size of the position; is that correct?

A. Yes, in most cases. There are some, you know, there may be some changes for some products. They could have like a multiplying

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factor, a pricing factor, or a multiplier. It depends on the -- on the security.

Q. And would there be formulas within GFS that would do the calculation of market value using the price and position size and get the -- any other relevant information?

A. Yes, that's correct.

Q. And who was responsible for determining what those formulas would be that were entered into GFS?

A. The formulas were built in the form of code in GFS. I was not there when the formulas were put in so I don't know who was responsible for putting those in.

Q. Would you expect that the formulas would be determined by someone in finance or on the business side?

MR. THOMAS: Objection to form.

A. I don't know. I really cannot answer that because I was not there with the system then.

Q. In addition to prices that might have flowed into GFS from the various settlement systems, is there anywhere else that the prices

1 Krishnan
2 would flow into GFS from?
3 A. There might have been other systems.
4 There was a Prime Broker system which might have
5 given prices.
6 Q. Would there have been feeds into GFS
7 or into the settlement systems that flow into
8 GFS from third-party vendors such as Bloomberg
9 or Reuters, for instance?
10 A. No, we did not get anything from
11 Bloomberg or Reuters or any third party. We
12 always got prices from internal Lehman systems.
13 Q. But would other internal Lehman
14 systems which then flowed into GFS get feeds
15 from various third-party vendors such as
16 Bloomberg and Reuters?
17 A. I don't know. I would think they
18 would have got it from third-party vendors, but
19 I don't know where they got their prices from.
20 Q. And are there any other internal
21 Lehman systems other than settlement systems or
22 the Prime Broker systems that would have flowed
23 into GFS?
24 A. Could you repeat the question?
25 Q. Are there any other internal Lehman

1 Krishnan
2 systems other than settlement systems or the
3 Prime Broker systems that would have flowed into
4 GFS?
5 A. We had a product reference data
6 flowing from a system called Global Products.
7 Q. And what is Global Products?
8 A. That was holding information about all
9 securities. Like, you know, a security could
10 have a currency and like a description of the
11 security and a security has various identifiers
12 like SEDOL, ISIN, so all these would be -- would
13 be sourced from Global Products.
14 Q. Could you perhaps explain a little bit
15 more what you mean by "various identifiers"?
16 A. A security could have a lot of
17 identifiers. So the system called ISIN, it's --
18 I think European securities have the ISIN. Then
19 there's a SEDOL. It could be a CUSIP.
20 Q. And would Global Products also include
21 any sort of pricing or valuation information
22 about any given security?
23 A. I'm not sure if they had, but we did
24 not get the pricing information from them.
25 Q. Do you know how pricing information

1 Krishnan
2 was entered into the settlement systems?
3 A. No, I do not know that.
4 Q. Do you know how information flowed
5 into GFS? Let me rephrase that. We had
6 discussed earlier FTP.
7 A. Right.
8 Q. Is that how information flowed into
9 GFS?
10 A. For the most part, yes. Sometimes we
11 used to, for example, the Global Products, we
12 used to execute what is called as a remote
13 procedure call in their system to get the data
14 out.
15 Q. Does that mean that, in order to get
16 information from Global Products, it was not an
17 automated process?
18 A. We had different types of getting
19 information from Global Products. One of them
20 was doing a remote procedure call. The other --
21 there were also other ways. We also got files
22 through FTP from Global Products.
23 Q. When you say a remote procedure, is
24 that an automated procedure?
25 A. Yes, it -- what it means is my system

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2 makes a call to their system through a remote
3 procedure. That means I'm remotely sitting
4 somewhere and my system is making that call.
5 That's why it's called a remote procedure call.
6 Q. And does that remote procedure call
7 happen every day at a set --
8 A. Every day --
9 I'm sorry.
10 Q. -- every day at a set time?
11 A. Every time we see a new product that
12 we don't have we initiate a remote procedure
13 call to get the information for that product.
14 Q. So I just want to make sure that the
15 record isn't confused here. You initiate rather
16 than it being an automatic process by which you
17 would receive the information from Global
18 Products; is that correct?
19 A. No, we do not do it manually. The
20 system is coded to do that when it sees a
21 security that is not there in our system, it
22 goes to Global Products to get the information.
23 Q. So the system is set up to
24 automatically, if it sees a product that it does
25 not have information for, to obtain that

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2 information from Global Products; is that
3 correct?

4 A. Yes, that's correct.

5 Q. How about any other systems that flow
6 into GFS, is that an automated process?

7 A. Any -- most of the systems --
8 actually, all of the systems are automated
9 process through FTP.

10 Q. And how does that automated process
11 work?

12 A. I think the system from which we are
13 getting the feed, they would have some sort of
14 automated job set up to deliver the files to us
15 through FTP.

16 Q. And do you know how frequently that
17 automated process occurs?

18 A. Every night we get feeds from the
19 systems.

20 Q. And do you know if each system feed
21 occurs at roughly the same time every night?

22 A. No, it depends on some of the feeds
23 may come in earlier, like around 8 P.M. or 9
24 P.M. Some of them are later, around 12 or 1
25 A.M. the next day morning.

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2 Q. And is there a procedure that takes
3 place after the nightly feeds into GFS?

4 MR. THOMAS: Objection to form.

5 A. The system takes care of loading the
6 feeds and processing them.

7 Q. Is that an automated process or does
8 it involve some sort of human input?

9 A. No, it's an automated process.

10 Q. Within GFS, how are the various --
11 scratch that. Before I start handing you
12 documents, just one last question: How long
13 were you employed by Lehman Brothers?

14 A. I was employed in 2005 June.

15 Q. And you worked there through September
16 2008; is that correct?

17 A. Yes, that's correct.

18 Q. And did you have the same position the
19 whole time you were at Lehman?

20 A. I've been with the same group.

21 Q. Did you have the same duties and
22 responsibilities for the roughly three years
23 while you were at Lehman?

24 A. For the most part, yes.

25 Q. Were you working with GFS during that

1 Krishnan
2 whole period of time?

3 A. Yes.

4 (Deposition Exhibit 828, Barclays'
5 Exhibit List, marked for identification, as
6 of this date.)

7 Q. Ms. Krishnan, I'm putting before you
8 what has been marked as Deposition Exhibit 828.
9 It is a copy of Barclays' exhibit list that was
10 attached to a June 28 e-mail from Barclays'
11 counsel.

12 I'm also going to hand you what has
13 been marked as Deposition Exhibit 829. It is a
14 copy of movants' exhibit list in this matter
15 which is attached to a June 17 e-mail from Fara
16 Tabatabai.

17 (Deposition Exhibit 829, Movants'
18 Exhibit List attached to a June 17 e-mail
19 from Fara Tabatabai, marked for
20 identification, as of this date.)

21 Q. I'm also going to hand you what has
22 been marked as Deposition Exhibits 830 through
23 856, which are copies of various GFS reports
24 that have been produced in this matter.

25 (Deposition Exhibit 830 through 856,

1 Krishnan

2 copies of various GFS reports, marked for
3 identification, as of this date.)

4 Q. Deposition Exhibit 857, which is a
5 compilation of document production letters from
6 Barclays' counsel producing the various GFS
7 reports.

8 (Deposition Exhibit 857, a compilation
9 of document production letters from
10 Barclays' counsel producing the various GFS
11 reports, marked for identification, as of
12 this date.)

13 Q. And finally, Deposition Exhibit 858,
14 which appear to be summary reports that were
15 produced to us by Barclays' counsel last evening
16 which we, you know, object to the production of
17 these documents after the close of discovery and
18 ask Barclays' counsel if there's a reason that
19 they're being produced now.

20 (Deposition Exhibit 858, Summary
21 Reports, marked for identification, as of
22 this date.)

23 MR. THOMAS: Which document request do
24 you think it's responsive to?

25 MS. CARRERO: These are documents that

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<p>1 Krishnan</p> <p>2 were produced to us last night and --</p> <p>3 MR. THOMAS: As a courtesy because we</p> <p>4 thought it may come up in the deposition.</p> <p>5 MS. CARRERO: We had not requested</p> <p>6 them and view them as a production</p> <p>7 subsequent to the close of discovery.</p> <p>8 MR. THOMAS: You don't have to use</p> <p>9 them.</p> <p>10 MS. CARRERO: But we can discuss that</p> <p>11 later and have been told that Bates-stamped</p> <p>12 copies are on their way.</p> <p>13 MR. THOMAS: Right. Obviously if it</p> <p>14 wasn't clear, we object to the</p> <p>15 characterization about the timeliness of</p> <p>16 production.</p> <p>17 MS. CARRERO: And again, we just state</p> <p>18 our objection to the production after the</p> <p>19 cut-off.</p> <p>20 MR. THOMAS: And --</p> <p>21 MS. CARRERO: As well as reserve our</p> <p>22 right to object on any other grounds.</p> <p>23 Q. So with all those exhibits in front of</p> <p>24 you now, why don't we proceed in identifying</p> <p>25 them for the record so it's clear.</p>	<p>1 Krishnan</p> <p>2 Starting with what should be</p> <p>3 Deposition Exhibit 829, which is a copy of</p> <p>4 movants' trial exhibit list, turning to page 20</p> <p>5 of that list, do you see the items corresponding</p> <p>6 to Movants' Trial Exhibits 301 through 306?</p> <p>7 A. Uh-huh. Yes, I do.</p> <p>8 Q. Those are identified as GFS Detailed</p> <p>9 Exposure Reports dated September 12 through</p> <p>10 September 19. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. We have for purposes of this</p> <p>13 deposition marked those as Deposition Exhibits</p> <p>14 830 through 835, which are before you as well.</p> <p>15 Do you see those?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Did you prepare these reports for</p> <p>18 their production?</p> <p>19 A. Either me or my team would have</p> <p>20 prepared these.</p> <p>21 Q. And do you know who requested</p> <p>22 preparation of these reports?</p> <p>23 A. I don't remember who requested. There</p> <p>24 are a lot of requests to the GFS system. Unless</p> <p>25 there's a ticket number, I would not know who</p>
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<p>1 Krishnan</p> <p>2 requested them.</p> <p>3 Q. Do you know the report path that was</p> <p>4 used to generate any of the reports that are at</p> <p>5 Deposition Exhibits 830 through 835?</p> <p>6 A. You mean do I recognize these reports?</p> <p>7 Q. Do you recall being asked to generate</p> <p>8 them or recognize the reports in order to be</p> <p>9 able to tell us the report paths that were used</p> <p>10 to generate them?</p> <p>11 We can also pull up any of them</p> <p>12 electronically. We have the projector set up</p> <p>13 for purposes of doing so, if necessary.</p> <p>14 A. I recognize these reports and the</p> <p>15 report names and, you know, I do not remember</p> <p>16 the query or anything because we usually look at</p> <p>17 this report and we pull the query from the</p> <p>18 system.</p> <p>19 Q. If I were to tell you they had been</p> <p>20 produced to us in connection with the Expert</p> <p>21 Report of Professor Paul Pfleiderer in January</p> <p>22 of 2010, would that refresh your recollection of</p> <p>23 what query was entered in order to generate</p> <p>24 these reports that are marked Deposition</p> <p>25 Exhibits 830 to 835?</p>	<p>1 Krishnan</p> <p>2 MR. THOMAS: Objection to form.</p> <p>3 A. I have to look at the ticket that was</p> <p>4 raised to, you know, exactly remember what were</p> <p>5 the queries, and the queries are pretty long and</p> <p>6 there's no way I could remember.</p> <p>7 Q. And what exactly is a ticket?</p> <p>8 A. There is a system called SAM in which</p> <p>9 any -- any request, data requests related to</p> <p>10 Lehman are entered and, upon approval, we</p> <p>11 process those requests.</p> <p>12 Q. And who can enter requests through</p> <p>13 SAM?</p> <p>14 A. I know a person who enters requests.</p> <p>15 I don't know who all can. There's a person</p> <p>16 called Rudy Santa Maria. I don't remember her</p> <p>17 last name. I don't even know if it's a she or a</p> <p>18 he. First name is Rudy, I think.</p> <p>19 Q. And is it your understanding that Rudy</p> <p>20 would receive requests that he or she would then</p> <p>21 enter into SAM?</p> <p>22 A. Yes, kind of.</p> <p>23 Q. And would those requests contain a</p> <p>24 specific report path or an explanation of the</p> <p>25 type of end product one wanted and leave</p>

1 Krishnan
2 discretion to you and your group to determine
3 how to query that information?
4 A. No. Most cases they will let us know
5 exactly what they want. They mostly give us
6 like the report name, any filters that need to
7 be applied, any filters to exclude or include
8 data, everything is specified in the ticket, and
9 the date for which they need the data.
10 Q. And do you know if Rudy or whoever may
11 have entered the information into SAM would be
12 given that specific information or would be the
13 one entering that specific information after
14 being told what was needed?
15 A. I don't know who puts that
16 information, but that information is there in
17 the SAM ticket, so that's the one we look at.
18 Q. Are there ever instances where a SAM
19 ticket might have a query that is not possible
20 or needs to be revised?
21 MR. THOMAS: Objection to form.
22 A. Yes, there have been cases like that.
23 Q. And what do you do in cases like that?
24 A. We communicate with them that whatever
25 the reason we are not able to do it and they

1 Krishnan
2 come back with an additional request or they
3 change the request.
4 Q. And the types of queries that are
5 entered into SAM, are they generally uniform
6 type of requests of reports that are generally
7 run on a daily or monthly or regular basis?
8 MR. THOMAS: Objection to form.
9 A. We would have the -- it's -- I don't
10 know how frequently it happens, but whenever we
11 get a request, we would run the report for that
12 specific date that's in the ticket, that's in
13 the SAM ticket.
14 Q. But the report that would be run, is
15 that necessarily a report that would be run
16 regularly, daily, monthly, quarterly, yearly, or
17 could it be a unique query that just captures
18 what's being requested at that moment?
19 A. I wouldn't know that because I do not
20 run the reports. None of us in Technology
21 really runs the reports unless they are for
22 dates like these, which may not be available in
23 the system anymore. It's the users who run the
24 reports, so I don't know which ones they run
25 monthly, quarterly.

1 Krishnan
2 Q. And when you say may not be available
3 in the system anymore, what do you mean?
4 A. The system holds only last 23 business
5 dates and last 13 month-ends and last 2
6 year-ends.
7 Q. And what happens to anything that is
8 older than what the system holds?
9 A. It -- every night we have an archive
10 process which saves all the data. So if we need
11 for a date that's not available online, we'll
12 have to -- we have a Tape Archive Team which
13 restores the data.
14 Q. And do you know what the process of
15 restoration entails?
16 A. I know the -- that we have to raise a
17 request to have it restored, but other than that
18 it's between the DBAs and the Restore Team,
19 which the Restore Team restores it to a path and
20 the DBAs load it up.
21 Q. And if a SAM ticket were entered for a
22 query, for instance, of September 2008 data,
23 what would be the next step given the data
24 requested is older than what is stored?
25 A. For the September 12 and the 19, GFS

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2 has special environments because those dates
3 were requested very often. Any date other than
4 that, we would raise a request to the Data
5 Archive Team and they will load it to the right
6 path.
7 Q. And what exactly do you mean by
8 special environments?
9 A. GFS -- since GFS production could not
10 hold more than, you know, the 23 business days,
11 and since September 12 was not a month-end, we
12 had to maintain a special environment because it
13 was an important date which a lot of Lehman
14 entities were asking the data for, we -- we set
15 up a special environment for the September 12
16 and the 19.
17 Q. But by "special environment," you mean
18 on the existing GFS system without it going
19 through the normal archive process?
20 A. What I mean is we have a production
21 environment which has the last 23 business days
22 and we have a separate GFS instance, which is a
23 completely different way to get into there and
24 that one was holding the September 12 data.
25 Q. As well as the September 19 data; is

1 Krishnan
2 that correct?
3 A. Yes.
4 Q. And who has responsibility for
5 changing or maintaining the September 12 and
6 September 19 data within the special
7 environment?
8 A. Any user who has adjustment access.
9 Q. And do you know who those users are
10 that have adjustment access?
11 A. I don't recall who are the users.
12 Q. Are you or your group responsible for
13 changing or maintaining the September 12 and
14 September 19 GFS data?
15 A. We are responsible for systematically
16 maintaining it, but we do not change anything in
17 the data.
18 Q. And what does it entail to
19 systematically maintain it?
20 A. We make sure that we do not touch that
21 database and it's available for users to view,
22 if necessary.
23 Q. Have you or your group ever undertaken
24 to analyze the accuracy of any of the
25 information within the September 19 or September

1 Krishnan
2 A. The database administrators.
3 Q. And what do you mean by a "free
4 environment"?
5 A. In order to load the archived data, we
6 need the database to load it. So we have to
7 free up some environment in the GFS instance to
8 have it loaded.
9 Q. And once it -- once the archive data
10 was restored and loaded into the free
11 environment, who would run the query requested
12 on the SAM ticket?
13 A. Because GFS has this limitation with
14 the available front ends, if it's -- if it's a
15 date that's not the 12th or the 19th, we
16 would -- the Technology Team would run the
17 report.
18 Q. And do you recall if anyone has
19 requested that you or your team run any reports
20 in connection with this matter?
21 MR. THOMAS: Objection to form.
22 A. I don't recall anything like that.
23 Q. Whether that be through a verbal
24 request or a SAM ticket, you have no
25 recollection?

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2 12 data contained in the special environment?
3 A. No, we were not involved in checking
4 the accuracy.
5 Q. Were you or your group involved in the
6 input of any of the September 12 or September 19
7 GFS data?
8 A. We were responsible for systematically
9 making it work, but we were not responsible for
10 making any changes to the data.
11 Q. And any other data within the
12 September 12 to September 30, 2008 date range,
13 other than the 12th and 19th that we just
14 discussed, would be subject to the archive
15 process we discussed before; is that correct?
16 A. That's correct.
17 Q. And if a SAM ticket were entered for
18 data related to any of those archive dates, what
19 would be the next step?
20 MR. THOMAS: Objection to form.
21 A. The next step would be to -- the Tech
22 Team to get to the Archive Team to restore it
23 and then raise a ticket to the DBAs to load it
24 up in a free environment.
25 Q. And who are the DBAs?

1 Krishnan
2 A. We get a whole lot of tickets, so --
3 like a lot of, two and a half years, all of the
4 time we've had like a lot of tickets. I don't
5 know specifically which -- I mean, unless you
6 give me the ticket number, I wouldn't know.
7 Q. If you could take a look at Deposition
8 Exhibit 828 and turn to page 31. Do you see
9 listed BCI Exhibit Nos. 501 through 503 which
10 are described as GFS reports for September 12,
11 September 15 and September 19, respectively?
12 A. Uh-huh.
13 Q. If you would turn to what has been
14 marked as Deposition Exhibits 836 through 843,
15 do you see that Deposition Exhibit 836
16 corresponds with BCI Exhibit 501 and Deposition
17 Exhibit 837 corresponds with BCI Exhibit No.
18 502, and then because the deposition exhibits
19 are in date order, BCI Exhibit No. 503
20 corresponds with Deposition Exhibit 841?
21 MR. THOMAS: Take as much time as you
22 need to look through all these documents.
23 Q. There's a lot of paperwork.
24 (Document review.)
25 A. Okay.

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<p>1 Krishnan</p> <p>2 Q. And then if you would turn to page 41</p> <p>3 of Deposition Exhibit 828, do you see where BCI</p> <p>4 Exhibit No. 667 through 671 are listed? Do you</p> <p>5 see that, 667 through 671 BCI exhibit numbers?</p> <p>6 A. Yes, I see it here on page 41.</p> <p>7 Q. And do you see that the descriptions</p> <p>8 listed next to BCI Exhibit Numbers 667 through</p> <p>9 671 correspond with what we have marked as</p> <p>10 Deposition Exhibits 838 through 843?</p> <p>11 MR. THOMAS: Objection to form.</p> <p>12 A. These are just I guess file names.</p> <p>13 Here it's report names. Right?</p> <p>14 Q. What we have done here is we have</p> <p>15 marked as an exhibit the placeholder or cover</p> <p>16 page of the GFS reports produced and have them</p> <p>17 available in native form, which is how most of</p> <p>18 them were produced to us, to the extent that we</p> <p>19 want to go through them in detail.</p> <p>20 A. Okay.</p> <p>21 Q. Do --</p> <p>22 MR. THOMAS: This stack of papers</p> <p>23 seems to be spreadsheets or something that</p> <p>24 says 844 through 856.</p> <p>25 MS. CARRERO: That stack corresponds</p>	<p>1 Krishnan</p> <p>2 with what has been marked as 844 through</p> <p>3 856, which we have not gotten to yet, but</p> <p>4 will be the next grouping.</p> <p>5 MR. THOMAS: Is there a way to tell --</p> <p>6 for example, you also have a stack of 846</p> <p>7 through 843. Is there a way to tell what is</p> <p>8 Exhibit 836 versus 837 versus 838?</p> <p>9 MS. CARRERO: On the witness's copies</p> <p>10 there is a deposition exhibit --</p> <p>11 MR. THOMAS: Oh. Yeah, thanks.</p> <p>12 MS. CARRERO: -- stamp.</p> <p>13 Unfortunately, we were not able to</p> <p>14 simultaneously make copies of it, but if you</p> <p>15 want to take a moment to go off-record and</p> <p>16 just write down the numbers on each relevant</p> <p>17 page, we can do that, if that would be of</p> <p>18 assistance.</p> <p>19 MR. THOMAS: Okay. I'll try to follow</p> <p>20 now that I know that I have something</p> <p>21 different than the witness has.</p> <p>22 MS. CARRERO: I tried very hard to</p> <p>23 make it a usable system. So whatever we</p> <p>24 need to do to make this as smooth as</p> <p>25 possible, given --</p>
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<p>1 Krishnan</p> <p>2 MR. THOMAS: I understand. I was</p> <p>3 having trouble following the whole thing.</p> <p>4 Now that I understand that the documents</p> <p>5 that the witness has have been marked as</p> <p>6 different exhibits, I'll try to look over</p> <p>7 her shoulder and follow.</p> <p>8 MS. CARRERO: Okay. Great.</p> <p>9 Q. So, with that said, do you see on</p> <p>10 Barclays trial exhibit list on page 41, BCI</p> <p>11 Exhibit Nos. 667 through 671, which are</p> <p>12 described as GFS reports, including equities for</p> <p>13 September 16 through September 22, and have what</p> <p>14 we call in legal-speak Bates numbers next to</p> <p>15 each respective report?</p> <p>16 A. Yes, I see that.</p> <p>17 Q. And then do you see in front of you</p> <p>18 what we have marked at this deposition as</p> <p>19 Deposition Exhibits 838 through 843, which are</p> <p>20 the placeholder or cover sheets to the GFS</p> <p>21 reports which were produced to us in native form</p> <p>22 and should correspond with 667 through 671 on</p> <p>23 Barclays' trial exhibit list?</p> <p>24 A. Yes, I see that.</p> <p>25 Q. Did you prepare the reports that were</p>	<p>1 Krishnan</p> <p>2 produced to us as deposition -- did you produce</p> <p>3 any of the reports that we have marked for</p> <p>4 purposes of this deposition as Deposition</p> <p>5 Exhibits 836 through 843?</p> <p>6 A. Unless I know the actual ticket number</p> <p>7 for this, these dates seem to be the dates that</p> <p>8 are not -- I mean, except for the 19th, the</p> <p>9 other dates seem to be that's not available</p> <p>10 online in the system. So 16th, 17th, 18th and</p> <p>11 22nd, based on some SAM ticket and approvals, my</p> <p>12 team or myself might have generated these</p> <p>13 reports, but for the September 19, I'm not sure</p> <p>14 because it is online; a user might have</p> <p>15 retrieved the report.</p> <p>16 Q. So if I were to tell you that these</p> <p>17 have been produced to us in April of 2010, that</p> <p>18 would not refresh your recollection as to</p> <p>19 whether or not you, yourself, generated these</p> <p>20 reports; is that correct?</p> <p>21 A. That's correct.</p> <p>22 MR. THOMAS: Objection to form.</p> <p>23 A. I need the ticket number.</p> <p>24 Q. And the same thing, you would need the</p> <p>25 ticket number to tell us the report paths that</p>

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<p>1 Krishnan 2 were used to generate any of the reports that we 3 have marked Deposition Exhibits 836 through 843 4 which correspond to BCI Exhibit Nos. 501 through 5 503, 667 through 671; is that correct? 6 A. That's correct. 7 MR. THOMAS: Objection to form. 8 Q. For any of the preceding GFS reports 9 that we have discussed, would you know when such 10 reports had been run? 11 A. For the 19th, you mean? 12 Q. I'm wondering if, when reports are 13 run, is there some way to query when a certain 14 report was run and the report path that was used 15 to generate it? 16 A. There might be. I'm not really sure 17 about that. 18 MR. THOMAS: Counsel, we've been going 19 over an hour. Probably need a break at some 20 point. 21 MS. CARRERO: This is a fine time to 22 break. 23 (Recess; Time Noted: 11:16 A.M.) 24 (Time Noted: 11:38 A.M.) 25 BY MS. CARRERO:</p>	<p>1 Krishnan 2 Q. So, before the break, we were 3 discussing what we have been referring to as 4 Deposition Exhibits 836 through 843, which 5 correspond to the BCI Exhibits 501 through 503 6 and 667 through 671, and if you want to turn 7 back to Deposition Exhibit 828, which is the BCI 8 exhibit list, I just have a question about that, 9 the title of the report. 10 If, for instance, on page 41, Exhibits 11 667 through 671 say "GFS Report (Including 12 Equities)"? 13 A. Yes. 14 Q. Do you know, is that a standard name 15 for a GFS report? 16 A. This is no -- I think this is 17 something that you put in, right? This doesn't 18 look like a GFS report name. 19 Q. Okay. So I believe it was Barclays' 20 counsel. I was just trying to confirm whether 21 that would be a formal name of a GFS report or 22 it was something that had been a name given to 23 it by counsel. 24 So am I correct to say that your 25 testimony is that's not the actual name of the</p>
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<p>1 Krishnan 2 report, correct? 3 A. I don't remember exactly the report 4 name, but this does not look like a GFS report 5 name. I think they put the name here for, you 6 know, whatever report they gave, they put the 7 name here. 8 Q. And would equities data normally be 9 contained within GFS? 10 A. Yes. 11 Q. And would that be both inventory and 12 financing positions? 13 A. I think so. 14 Q. And would equities finance use GFS in 15 order to prepare balance sheet numbers with 16 respect to equities? 17 MR. THOMAS: Objection to form. 18 A. I would think so, but I'm not sure for 19 that. 20 Q. Are you familiar with how any of the 21 balance sheets were generated by Finance within 22 Lehman? 23 A. You mean like how the users used it? 24 Q. How, if at all, GFS was used in order 25 to generate balance sheets at Lehman?</p>	<p>1 Krishnan 2 A. No, I'm not familiar with that. 3 Q. So is it safe to say, then, you don't 4 know whether GFS is used to create -- was used 5 to create Lehman's balance sheets? 6 A. I know that they were using to pull 7 some number out of GFS in the 10-Q or something, 8 but I don't know exactly how they did it or what 9 numbers they used. 10 Q. And do you know if any systems other 11 than GFS were used in order to generate Lehman's 12 books or balance sheets? 13 A. I wouldn't know. 14 Q. Would you know if the population of 15 securities within GFS changed day-to-day? 16 A. Could you repeat the question? 17 Q. Would you know whether the population 18 of CUSIPs or securities in GFS would change on a 19 day-to-day basis? 20 A. Yes, they could change. 21 Q. So, for instance, would you expect 22 that the securities or CUSIPs in GFS on, say, 23 September 12 would be identical to the 24 securities and CUSIPs that were in GFS on 25 September 15, September 16, et cetera?</p>

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<p>1 Krishnan</p> <p>2 I see the name here and the name here; they tie</p> <p>3 out.</p> <p>4 Q. Can I ask you where you're pointing to</p> <p>5 on Deposition Exhibit 8 --</p> <p>6 A. 844.</p> <p>7 Q. -- 44? And you're pointing to the</p> <p>8 title "BA: B-S Detailed Exposure Report (Cross</p> <p>9 System) - 12 Sep. 2008"; is that correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And that corresponds to the report</p> <p>12 name --</p> <p>13 A. Yes.</p> <p>14 Q. -- that's listed in Deposition Exhibit</p> <p>15 859; is that correct?</p> <p>16 A. Yes, that's correct.</p> <p>17 Q. And going through the other parts of</p> <p>18 the report path that are listed in Deposition</p> <p>19 Exhibit 859, could you tell me what "report</p> <p>20 group" means?</p> <p>21 A. Users belonging to different groups,</p> <p>22 they put a report under the -- I'm sorry. Okay,</p> <p>23 a report group means of which table, because all</p> <p>24 these reports are running off some tables in the</p> <p>25 database. So this one says of which table it</p>	<p>1 Krishnan</p> <p>2 runs. So this report group Balance Sheet</p> <p>3 Positions means it runs off a table called Bal</p> <p>4 Pos Report.</p> <p>5 Q. I'm sorry, could you repeat what the</p> <p>6 name of that report is?</p> <p>7 A. The report, the report group balance</p> <p>8 sheet positions, that would tell the system what</p> <p>9 table it has to run this query of.</p> <p>10 Q. And what would balance sheet positions</p> <p>11 mean?</p> <p>12 A. It would be the balance sheet</p> <p>13 information in GFS.</p> <p>14 Q. And would balance sheet information</p> <p>15 mean inventory positions?</p> <p>16 A. Yes, inventory positions.</p> <p>17 Q. And would it exclude any financing</p> <p>18 positions?</p> <p>19 A. I don't think it has financing</p> <p>20 positions in balance sheet positions. I'm not</p> <p>21 sure, though.</p> <p>22 Q. And do you know if any financing</p> <p>23 positions were transferred to Barclays through</p> <p>24 the sale transaction?</p> <p>25 MR. THOMAS: Objection to form.</p>
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<p>1 Krishnan</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know if GFS captures all</p> <p>4 positions that may have subsequently been</p> <p>5 transferred to Barclays through the sale</p> <p>6 transaction?</p> <p>7 A. I can -- I don't know the answer to</p> <p>8 that because I -- GFS processes anything that we</p> <p>9 get from the source systems, from the other --</p> <p>10 from the, let me say upstream systems. So we,</p> <p>11 if they have captured it, then it would have</p> <p>12 come down to us.</p> <p>13 Q. But you don't know if all of the</p> <p>14 positions that were transferred to Barclays</p> <p>15 through the sale transaction are in fact within</p> <p>16 GFS; is that correct?</p> <p>17 MR. THOMAS: Objection to form.</p> <p>18 A. I don't know.</p> <p>19 Q. Going down the list in Deposition</p> <p>20 Exhibit 859 of the report path, the next one is</p> <p>21 report category. Can you tell me what that</p> <p>22 means?</p> <p>23 A. This is -- the report category is for</p> <p>24 users to, you know, like if a user comes under</p> <p>25 "FID," it's easier for them to put the report</p>	<p>1 Krishnan</p> <p>2 under "FID" so they are able to easily access</p> <p>3 it. So they have various categories. Like they</p> <p>4 have probably Equity Product Control. They</p> <p>5 probably have like a balance sheet group or</p> <p>6 something. This is for ease of the users, so</p> <p>7 that's a report category.</p> <p>8 Q. And would it be FID Product Control,</p> <p>9 for instance, which is listed next to "report</p> <p>10 category" here, who would determine what</p> <p>11 information it would want captured in a query</p> <p>12 and then your group would help to standardize</p> <p>13 that format in order to make that query</p> <p>14 possible?</p> <p>15 MR. THOMAS: Objection to form.</p> <p>16 A. The user would put his report under</p> <p>17 FID Product Control. He will have -- he or she</p> <p>18 will have control on what the filters. By</p> <p>19 "filters," I mean any inclusions/exclusions he</p> <p>20 wants. They will have control over that.</p> <p>21 Q. And those filters would be entered on</p> <p>22 a report-by-report basis or standardized and</p> <p>23 then run regularly by a group such as FID</p> <p>24 Product Control?</p> <p>25 A. They would be -- the filters would be</p>

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<p>1 Krishnan</p> <p>2 set up and I -- I joined in 2005, so this was</p> <p>3 functional at the time that I joined, you know,</p> <p>4 exporting to Excel and that export being</p> <p>5 correct, you know, when -- when they released</p> <p>6 that feature for the system, they probably</p> <p>7 tested it. When I joined Lehman, this</p> <p>8 functionality was already there.</p> <p>9 Q. And there has never been a situation</p> <p>10 where files exported to Excel are found to be</p> <p>11 corrupted or inaccurate?</p> <p>12 A. Not that I know of.</p> <p>13 Q. It's possible, though, that some</p> <p>14 export of GFS data to Excel could have been</p> <p>15 corrupted or inaccurate; is that correct?</p> <p>16 MR. THOMAS: Objection to form.</p> <p>17 A. I don't expect it to happen. I've</p> <p>18 never seen it in my five years.</p> <p>19 Q. But you don't know that it has not</p> <p>20 happened; is that correct?</p> <p>21 MR. THOMAS: Objection to form.</p> <p>22 A. I don't know what I've not seen, so I</p> <p>23 have not seen it happen.</p> <p>24 Q. Similar to my questions about the</p> <p>25 interplay between the long inventory columns, I</p>	<p>1 Krishnan</p> <p>2 have the same question about the columns labeled</p> <p>3 "Gross Short Inventory" versus the "Short BPM</p> <p>4 CUSIP Netdown, Trade Date at MV," and then the</p> <p>5 column named "Short Inventory, TD@MV."</p> <p>6 A. I would have to look at the attribute</p> <p>7 mappings. I don't know.</p> <p>8 Q. And the table you describe, the</p> <p>9 attribute mapping, is it a discrete document or</p> <p>10 is it a system in itself?</p> <p>11 A. It is just a table and it says like,</p> <p>12 for example, this gross long inventory, this</p> <p>13 means maybe the field name in the table is some</p> <p>14 TD gross market value or something, or it could</p> <p>15 be that it's populating this value only in some</p> <p>16 cases because the TD gross market value could be</p> <p>17 a negative or a positive so it could have a</p> <p>18 condition saying this -- populate this feed only</p> <p>19 if the TD gross market value is greater than</p> <p>20 zero. I mean, or it could have other</p> <p>21 conditions.</p> <p>22 Q. Do you know which of the three columns</p> <p>23 that I just identified would be included in</p> <p>24 financial reporting?</p> <p>25 A. I don't know.</p>
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<p>1 Krishnan</p> <p>2 Q. Do you know why the column labeled</p> <p>3 "Long Inventory, TD@MV," which is column U of</p> <p>4 831, is sometimes negative?</p> <p>5 A. I -- I'm just guessing. I think it</p> <p>6 may be negative and when it's grouping rows and</p> <p>7 the sum of those two rows is a negative number.</p> <p>8 I'm not sure.</p> <p>9 Q. Would you expect a long position to be</p> <p>10 a negative number?</p> <p>11 A. Maybe if the price was negative or --</p> <p>12 I guess in that case it could have been a</p> <p>13 negative number.</p> <p>14 Q. There could be a negative price within</p> <p>15 GFS?</p> <p>16 A. You asked your question whether I knew</p> <p>17 why the prices were negative, right? So I have</p> <p>18 not really seen -- see, as technologists, we</p> <p>19 don't look at the data day-to-day, so there</p> <p>20 might have been a negative price, I don't know.</p> <p>21 I thought you had seen a negative price, that's</p> <p>22 why you're asking.</p> <p>23 Q. Would you expect to see a negative</p> <p>24 price for anything other than a short position?</p> <p>25 A. I wouldn't expect to see a negative</p>	<p>1 Krishnan</p> <p>2 price for anything. I don't know.</p> <p>3 Q. And in general, do you know which</p> <p>4 columns are used for purposes of financial</p> <p>5 reporting, if any?</p> <p>6 A. I don't know.</p> <p>7 Q. And if you look at column AA in</p> <p>8 Deposition Exhibit 831, which is titled "Short</p> <p>9 Inventory, TD@MV," what does that mean?</p> <p>10 A. The "Short Inventory, TD at Market</p> <p>11 Value," That is the same as the long inventory,</p> <p>12 but it would be populated if it's a short.</p> <p>13 Q. And what does it mean if the number</p> <p>14 within that column is negative?</p> <p>15 A. The "Short Inventory, TD Market Value"</p> <p>16 is probably a negative a lot because it's --</p> <p>17 it's populated only if it is negative.</p> <p>18 Q. And do you know which column related</p> <p>19 to short inventories would be included in</p> <p>20 financial reporting?</p> <p>21 A. No, I don't know.</p> <p>22 MS. CARRERO:</p> <p>23 (Discussion off the record.)</p> <p>24 Q. Do you know what it means when the</p> <p>25 column "Trade Date Position" is positive but the</p>

1 Krishnan
2 column "Short Inventory, Trade Date at MV" is
3 negative?
4 A. I don't know what it means, but I
5 would guess that the price was negative.
6 Something has got to be negative to make the
7 market value negative.
8 Q. Would it -- what sort of procedures
9 were in place to confirm the GFS data was
10 correct -- or, let me rephrase that.
11 If there was a concern that any data
12 within GFS may have been incorrect, what sort of
13 procedures were in place to identify any errors
14 and to fix those errors?
15 A. Any data-related issues would be
16 detected by the users, financial controllers,
17 product controllers, who look at the report
18 every day. They would say -- they would come to
19 us saying why this is not what I expect it to be
20 and then we would debug to, you know, we would
21 look at the code to see what it is set up to do
22 or maybe the input was incorrect or maybe there
23 was an adjustment that was incorrect report, so
24 then we find out what are the reasons behind it.
25 Q. So you and your group would not have

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2 detected it. They would probably put like an
3 adjustment, a price adjustment, to correct it.
4 We don't even have to know about it. It just
5 goes through the system.
6 Q. What does it mean when two rows with
7 the same value in the column headed "Real World
8 CUSIP" have two different values in the column
9 labeled "Fair Value Level"? If you're looking
10 at 831, you can turn to column N and column BQ.
11 A. The "Real World CUSIP" is a security
12 identifier. And I think the "Fair Value Level"
13 is something that the users assign.
14 Q. I'm sorry, could you repeat that?
15 A. The "Fair Value Level" is something
16 that the users tag positions. I'm not sure why
17 you want -- if the CUSIP is the same, why the
18 fair value levels were different.
19 Q. I mean, do you know if it's possible
20 for one security to be assigned two different
21 fair value levels?
22 A. I don't -- I don't know about the fair
23 value levels because I think that the fair value
24 levels is something that the user tags, and I
25 don't know, it could have been any reason why

1 Krishnan
2 been responsible for analyzing the data for any
3 potential inaccuracies?
4 A. No.
5 MR. THOMAS: Objection to form.
6 Q. And if any inaccuracies were the
7 consequence not of a technological issue but,
8 rather, a deliberate input, would that come to
9 your attention or would the product controllers
10 or finance take that elsewhere in order to make
11 any necessary adjustments?
12 A. If they -- if they find something
13 wrong, they would come to us, normally, unless
14 they're able to fix it from their side. They
15 would come to us and we would tell them like
16 this is why this has happened and, you know, as
17 I said earlier, it could be there could have
18 been a problem with the input that we got.
19 Q. If a product controller in Finance had
20 an issue with a price input into one of the
21 settlement systems deliberately by, for
22 instance, a trader, would that come to your
23 attention or would that be fixed by Finance or
24 the front office directly?
25 A. It would be fixed by the user who

1 Krishnan
2 they didn't tag the other CUSIP.
3 Q. So you don't know if, when this
4 happens, which fair value level should be
5 considered, correct?
6 A. No, I don't know.
7 Q. And do you know why some securities
8 have not been assigned a fair value level?
9 A. I don't know. Sorry.
10 Q. If we wanted to recalculate the long
11 inventory value based on data in GFS, do you
12 know which columns would be used?
13 A. I think it would be the, for the
14 traded market value, long market value to be the
15 traded position and the price.
16 Q. Which columns are you looking at in --
17 A. I'm actually looking at 836.
18 Q. So in 836, which columns numbers would
19 be the ones used?
20 MR. STEPHENS: I think, just for
21 clarity, you have an excerpt of 836 behind
22 the first -- what you have there. Sorry. I
23 believe if you turn -- you've got a second
24 sticker. I think you're in 837, just for
25 clarity.

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<p>1 Krishnan 2 THE WITNESS: Thank you. 837. 3 A. There was a trade date position 4 somewhere. AV. 5 Q. So in using Deposition Exhibit 836, 6 you would go to column AB? 7 A. AV, as in Victor. 8 Q. AV, as in Victor. And what else would 9 you use in order -- 10 A. I'm not sure if we used the AY or the 11 AZ. AY is the clean market price and AZ is the 12 dirty market price. 13 Q. Would you also need the factor in 14 order to calculate? 15 A. Yes, I would need the factor and the 16 multiplier. I don't think it's in here. 17 Q. Is anything else needed in order to 18 calculate the long inventory value using that 19 report? 20 A. As far as I can remember, I think if 21 you have those values, we can calculate it. 22 Q. So if you have the values in AV along 23 with either the clean or the dirty market price, 24 and then you would need the factor and 25 multiplier, which is not within the report; is</p>	<p>1 Krishnan 2 that correct? 3 A. That's correct. 4 Q. Is there a rounding convention for 5 clean or dirty prices using a certain amount of 6 decimals? 7 A. I think when they export to Excel, it 8 automatically rounds, but I'm not sure if 9 they're able to specify that. I'm not sure 10 about the rounding. 11 MS. CARRERO: This is a fine time to 12 break. 13 (Luncheon recess; time noted: 1:15 14 P.M.) 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 Krishnan 2 AFTERNOON SESSION 3 (Time Noted: 2:12 P.M.) 4 UMA KRISHNAN, resumed and 5 testified further as follows: 6 EXAMINATION BY (Cont'd.) 7 MS. CARRERO: 8 Q. Ms. Krishnan, before lunch, we had 9 been discussing the various GFS reports 10 produced, and we had talked about three separate 11 productions of GFS reports received, one set in 12 the fall of 2009, a set in January of 2010, and 13 another set in April of 2010. 14 We had stopped our questioning about 15 the January 2010 reports to receive confirmation 16 from counsel on something, and I think that 17 we're ready to proceed now on questioning about 18 the January 2010 reports, those run without 19 equities. 20 If you can look at Deposition Exhibit 21 831, for instance, that being September 15 GFS 22 report that was produced to us on January 18. 23 Do you have that in front of you? 24 A. Yes. 25 Q. Looking at Deposition Exhibit 831, can</p>	<p>1 Krishnan 2 you determine from the title of that report the 3 report path that would have been used to 4 generate the report for you? 5 A. From the title, we cannot say like 6 what filter we applied while running the report, 7 but maybe if we look at the data, we can make a 8 guess. 9 Q. And so from the report name itself, 10 you would not know exactly what would be 11 captured in the report; is that correct? 12 A. We would be sure about what data is -- 13 what the data is built off, but filters are 14 not -- are not obvious from the report name. 15 Q. So you wouldn't know just from the 16 report name whether it includes equities, for 17 instance, or doesn't include equities; is that 18 fair? 19 A. That's correct. 20 Q. So if we were to turn to the 21 electronic version of 831, is there any specific 22 column or row that would help you to determine 23 what the report path used to generate such a 24 report would have been? 25 A. I think if we are able to look at "Sum</p>

1 Krishnan
2 Equities" in the "Division," if you can filter,
3 it's actually all capitals.
4 Q. Would it be a specific column heading
5 that we should be looking?
6 A. Yes, the "Division," the first one.
7 Q. The "Division"?
8 A. That's the first column.
9 Q. Okay. So if in the "Division" column
10 there are I believe no equities, would it be
11 your understanding that you only used, in
12 connection with this matter, two distinct report
13 paths to generate any GFS reports?
14 A. Sorry, could you repeat that?
15 Q. Do you know if you used more than just
16 two report paths in order to generate any
17 reports, GFS reports, in connection with this
18 matter?
19 A. No, we used only this -- that one
20 report path that we gave for all the reports.
21 Q. However, I think we had discussed
22 before that the later April 2010 reports that
23 were produced have equities data in addition to
24 fixed income data; is that correct?
25 A. That's correct. So we modified the

1 Krishnan
2 filter for doing that.
3 Q. And would that not constitute a
4 distinct report path if the filters were
5 modified with respect to the April 2010 reports?
6 MR. THOMAS: Objection to form.
7 A. I wouldn't say it's completely
8 different. We just changed the filter. I think
9 we still ran it with the same report name, so
10 you could say that they are different reports,
11 yes.
12 Q. And the April 2010 reports which are
13 Deposition Exhibits 836 to 843, what were the
14 additional filters that were added to the report
15 path specified in Deposition Exhibit 859?
16 A. We removed the -- this custom filter
17 LBI entity was including LBIs and excluding Sum
18 Equities, in you know, the Division Sum
19 Equities, so we changed -- we removed the
20 exclusion of Sum Equity and reran the same
21 reports.
22 Q. If you could just go into more detail
23 about what would have been removed or added?
24 A. The custom filter, it had an inclusion
25 of LBI and exclusion of sum equities.

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2 Q. And was it exclusion of sum equities
3 by virtue of the election of LBI?
4 A. I don't know who created the report,
5 so this was a user-created report that we --
6 that we got in the description of the ticket.
7 So I don't know how they made it.
8 Q. So the report group would be the same
9 for the April-produced GFS reports, Deposition
10 Exhibits 836 to 843, the report group would be
11 balance sheet positions; is that correct?
12 A. Yes, that's correct.
13 Q. And the report category would be FID
14 Product Control, is that correct?
15 A. That's correct. Uh-huh.
16 Q. And the report type would be custom;
17 is that correct?
18 A. Yes.
19 Q. And the report name would be BA: B-S
20 Detailed Exposure Report; is that correct?
21 A. That's correct.
22 Q. And the custom filter, what was the
23 custom filter?
24 A. The custom filter was probably we
25 removed the exclusion of Sum Equities and ran it

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2 when we reran it in April.
3 Q. Would that change the report type from
4 the custom report used previously if a custom
5 filter were changed or added?
6 A. No, it would still be report type
7 custom.
8 Q. And was the -- did the custom filter
9 have a specific name?
10 A. That's the LBI entity. That's the
11 name.
12 Q. The custom filter used to generate the
13 April-produced reports, Deposition Exhibit 836
14 to 843?
15 A. I don't know if we had a separate name
16 for that. I think what we probably did was
17 removed that exclusion of Sum Equities and ran
18 the report, and I don't know, I think probably
19 we did not save it like that. You know, we just
20 did like a one-time run removing that exclusion.
21 Q. So it was -- the exclusion wasn't one
22 that was normally done when running GFS reports?
23 MR. THOMAS: Objection to form.
24 A. I cannot answer that question because
25 I don't really normally run reports on this, you

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know. I get tickets like this.

Q. And would the Fixed Income Department Product Control -- or FID Product Control, would they be ones that ordinarily would run the reports?

A. Yes.

Q. And they would be the ones that ordinarily choose if there would be a custom filter, is that correct?

A. Yes.

Q. And you're not aware if they would use a custom filter that would include the equities; is that correct?

MR. THOMAS: Objection to form.

A. No, I don't know.

Q. Do you know if you or your group are the ones who ran the reports that were produced in April, Deposition Exhibits 836 to 843?

A. Yes, my -- either I or a person from my group ran the reports.

Q. And earlier you had indicated that the report would have been requested through a SAM ticket; is that correct?

A. Yes, that's correct.

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Q. Is that your recollection with respect to these reports, that you generated them in connection with a SAM ticket?

A. Yes, that's what I recall.

Q. And do you know who entered that request?

A. I don't remember who entered the request.

Q. Do you know when it was entered?

A. I think there was a ticket sometime around November of 2009 and probably later in January or February. I'm not sure.

Q. And do you know if the report path that you described to me is what was written on that ticket to be run?

A. Yes, this; all these details right there.

Q. And do you know who requested that information, even if not the person to put in the SAM ticket?

A. Who --

MR. THOMAS: Objection to form.

A. It was a request from the attorneys.

Q. And do you know if the attorneys are

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the ones who picked the report path to be run?

A. I don't know who picked the path.

Q. Ms. Krishnan, if I could put before you what has been marked as Deposition Exhibit 858, and I am going to also hand you what has previously been marked as Deposition Exhibit 791 and BCI Exhibit No. 779.

Turning first to Deposition Exhibit 858, do you recognize this document?

A. Yes.

Q. Did you prepare this document?

A. Yes.

Q. And could you describe for me what this document is?

A. We wanted to summarize based on the GAAP asset classes because the other Excel reports were really big, so these were for that purpose.

Q. And what sort of filter or report path was used to generate the summaries by asset -- by GAAP asset class in Deposition Exhibit 858?

A. The filter we used were the same as the ones we used for this 836 and the others -- I mean, the ones with the including the

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equities. And we included only the long inventory market value because that's the numbers that they wanted to be summarized, and we included the GAAP Asset Class 1 number and the name, you know, to group by that feed, those feeds.

Q. And you said that they wanted to summarize. Who were you referring to?

A. The attorneys.

Q. And is this a summary that you would have prepared regularly in your position?

MR. THOMAS: Objection to form.

A. No, I have not prepared this previously.

Q. And was there a particular report path that you used to generate this summary?

A. It was -- it was based on the big reports, the 831 or 83 -- I don't remember the numbers, the equities. It was based off that, but when you group the data by just the GAAP asset class and, you know, the GAAP Asset Class 1 Number and the name, it sums up the long inventory market value. So that's how we got a summary.

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<p>1 Krishnan</p> <p>2 Q. And the "Long Inventory Trade Date at</p> <p>3 MV" column is a column that comes straight from</p> <p>4 the GFS reports that we were discussing, is that</p> <p>5 correct?</p> <p>6 A. Yes, it's the same that you see in the</p> <p>7 other reports. I don't remember the column</p> <p>8 name -- I mean the column heading.</p> <p>9 Q. When did you run these reports?</p> <p>10 A. I think we ran this in April.</p> <p>11 Q. If I were to want to recreate this</p> <p>12 report from the GFS reports with equities that</p> <p>13 were produced in April, how would I go about</p> <p>14 doing that?</p> <p>15 A. If you wanted to the same reports?</p> <p>16 Q. If I wanted to get to, for instance,</p> <p>17 looking at the first page next to "Total</p> <p>18 Governments & Agencies" of 37,310,795,798?</p> <p>19 A. Uh-huh.</p> <p>20 Q. If I wanted to get to that number</p> <p>21 using the September 12 data, which I believe</p> <p>22 we've been referring to as Deposition Exhibit</p> <p>23 836, how would I do that?</p> <p>24 A. It could be a tedious process, but in</p> <p>25 Excel you can -- you can just filter the ones,</p>	<p>1 Krishnan</p> <p>2 the GAAP Asset Class 1 Name, Total Governments &</p> <p>3 Agencies. Is that part of this report? Should</p> <p>4 be, I think.</p> <p>5 Q. I believe it is at column V.</p> <p>6 A. It's not column V. It's column BK in</p> <p>7 831.</p> <p>8 Q. If we could go to Deposition Exhibit</p> <p>9 836 and that grouping through 843, because as I</p> <p>10 understand it, it was those reports produced in</p> <p>11 April that would be summarized within Deposition</p> <p>12 Exhibit 858; is that correct?</p> <p>13 A. Yes, that's correct. Let me see.</p> <p>14 It's column BL and BM. So you could, in Excel,</p> <p>15 you could filter BM for the total government and</p> <p>16 agencies and BL for the, you know, for the</p> <p>17 number that's there, GAAP Asset Class 1 Number,</p> <p>18 which is, I think, 70500. I see "Total</p> <p>19 Governments & Agencies" has two numbers, 70500</p> <p>20 and 72260.</p> <p>21 So if you filter this Excel on those</p> <p>22 values and you sum that long inventory TD market</p> <p>23 value, you should get this 37 billion plus that.</p> <p>24 Okay, 37 billion.</p> <p>25 Q. So it would not be limited to just the</p>
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<p>1 Krishnan</p> <p>2 GAAP asset class 70500, which is listed on 858</p> <p>3 in the column corresponding to the 37 billion</p> <p>4 figure?</p> <p>5 A. Actually, there are two GAAP Asset</p> <p>6 Class 1 numbers which are associated with the</p> <p>7 same name, Total Government & Agencies, but for</p> <p>8 September 12, I can see that the 72260 has a</p> <p>9 zero long inventory.</p> <p>10 Q. Okay. And where on Deposition Exhibit</p> <p>11 836, for instance, you see the word "null" under</p> <p>12 "GAAP Asset Class 1 Name" in column BM, do you</p> <p>13 know what that's a reference to?</p> <p>14 A. That refers to something that the</p> <p>15 system is not able to map to -- it's not able to</p> <p>16 put into any of the existing GAAP asset classes.</p> <p>17 Q. And would such securities in GFS be</p> <p>18 captured on your summary?</p> <p>19 A. Yes, I believe so. There is a 7999 in</p> <p>20 the summary.</p> <p>21 Q. So the 488 million figure in</p> <p>22 Deposition Exhibit 858 would be where that asset</p> <p>23 class is characterized as null?</p> <p>24 A. Yes.</p> <p>25 Q. And if you'd look at column BH?</p>	<p>1 Krishnan</p> <p>2 A. Uh-huh.</p> <p>3 Q. And that column is titled "Security</p> <p>4 Subtype" and says "Adjustment" in the</p> <p>5 corresponding rows to where the GAAP asset class</p> <p>6 is null, what does "adjustment" mean?</p> <p>7 A. "Adjustment" means that a user might</p> <p>8 have entered something to, you know, change that</p> <p>9 row or maybe it's an entirely new row that the</p> <p>10 user entered.</p> <p>11 Q. And can you tell when any such</p> <p>12 adjustments would have been made?</p> <p>13 A. Adjustments are made in GFS every day.</p> <p>14 Q. But can you tell when these specific</p> <p>15 adjustments would have been made?</p> <p>16 A. These are for 9/12, right? So they</p> <p>17 were probably made on -- they were probably --</p> <p>18 they could have been made on September 15 when</p> <p>19 the system was open for adjustments, but again,</p> <p>20 we also set up a special environment for the</p> <p>21 9/12 sometime late in October 2008 and it could</p> <p>22 have been made at that time.</p> <p>23 Q. So adjustments could be made for a</p> <p>24 previous day at any point after that date; is</p> <p>25 that correct?</p>

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<p>1 Krishnan</p> <p>2 A. No, adjustments can be made only on</p> <p>3 the day after. Say for September 12 was a</p> <p>4 Friday, so it can be made only on September 15</p> <p>5 till 6 P.M. But because the users thought that</p> <p>6 the data was not -- maybe the input was not</p> <p>7 correct or the maybe the data was not verified</p> <p>8 by the users on that day, on September 15, they</p> <p>9 had requested us to set up a special environment</p> <p>10 for them for the September 12.</p> <p>11 Q. I think we're talking past each other</p> <p>12 because my question right now is about the</p> <p>13 September 12 data and the "Adjustment" comment</p> <p>14 in column BH and whether that adjustment could</p> <p>15 be made at any point after September 15; is that</p> <p>16 correct?</p> <p>17 MR. THOMAS: Objection to form.</p> <p>18 A. I'm trying to explain that. Any</p> <p>19 adjustment that was made for September 12 could</p> <p>20 have been done on September 15, which is the</p> <p>21 normal time that adjustments would have been</p> <p>22 made for September 12, but since September 12</p> <p>23 was an important date for the users and they</p> <p>24 thought that the input data may not have been</p> <p>25 right or maybe the users did not check the data</p>	<p>1 Krishnan</p> <p>2 on September 15, they had a special environment</p> <p>3 set up to be able to make adjustments at a later</p> <p>4 date. Normally doesn't happen.</p> <p>5 So this adjustment could have come in</p> <p>6 on September 15 or it could have been entered at</p> <p>7 any time when we had the special environment</p> <p>8 open for users to make adjustments.</p> <p>9 Q. So is there a way of telling when any</p> <p>10 adjustment was made from the report that's in</p> <p>11 front of you?</p> <p>12 A. No, not from this report.</p> <p>13 Q. Is there a way of telling when any</p> <p>14 adjustment was made from the actual GFS data</p> <p>15 itself?</p> <p>16 A. We have a table that records all the</p> <p>17 adjustments, so we should be able to tell from</p> <p>18 that.</p> <p>19 Q. And adjustments to September 12 data</p> <p>20 is still possible even today; is that right?</p> <p>21 A. I don't think it's possible today. I</p> <p>22 think it's closed for adjustments.</p> <p>23 Q. Do you know when the period for</p> <p>24 adjustments was closed?</p> <p>25 A. I think it was closed sometime --</p>
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<p>1 Krishnan</p> <p>2 MR. THOMAS: Objection to form.</p> <p>3 A. -- sometime in January of or February</p> <p>4 of 2009, but I'm not too sure.</p> <p>5 Q. And is it your understanding that</p> <p>6 adjustments were made up through the period when</p> <p>7 it was closed in January or February of 2010 --</p> <p>8 or, 2009?</p> <p>9 MR. THOMAS: Objection to form.</p> <p>10 A. I think so.</p> <p>11 Q. And do you know who would have made</p> <p>12 those adjustments?</p> <p>13 A. I would guess that it would be the LBI</p> <p>14 and LBHI users because we brought up the</p> <p>15 environment for them, but I have not really</p> <p>16 checked the users and which group they belong</p> <p>17 to.</p> <p>18 Q. Could adjustments be made to any of</p> <p>19 the data in the week from September 15 through</p> <p>20 September 22 after those dates?</p> <p>21 A. For September 12, users had to have</p> <p>22 completed the adjustments by September 15, 6</p> <p>23 P.M.</p> <p>24 Q. I'm confused now, because your earlier</p> <p>25 testimony was that for September 12 there could</p>	<p>1 Krishnan</p> <p>2 be adjustments all the way until the adjustment</p> <p>3 period was closed a month later; is that</p> <p>4 correct?</p> <p>5 A. Right, that was a special case for</p> <p>6 just September 12.</p> <p>7 Q. So now what would be the case for,</p> <p>8 say, September 15, when could adjustments be</p> <p>9 made to data for September 15?</p> <p>10 A. Up to September 16, 6 P.M.</p> <p>11 Q. And what would the protocol be in</p> <p>12 order to make any adjustments after 6 P.M. on</p> <p>13 the following day?</p> <p>14 A. We can't do that.</p> <p>15 Q. The GFS data cannot be adjusted,</p> <p>16 generally speaking, after the cut-off period at</p> <p>17 6 P.M. the day after?</p> <p>18 A. That's correct.</p> <p>19 Q. But a special exception was made for</p> <p>20 the September 12 data; is that correct?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. And was a special exception made for</p> <p>23 data for any other day other than September 12?</p> <p>24 A. We had that -- the September 19 data</p> <p>25 available as well for users to make adjustments,</p>

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2 but I don't think users made adjustments for
3 September 19.
4 Q. If you could turn your attention to
5 Deposition Exhibit 791.
6 A. Is this the one?
7 Q. Yes. And if you could turn to the
8 Exhibit 1 -- actually, let me first ask you,
9 have you seen this document before?
10 A. Yes.
11 Q. When did you see this document?
12 A. I have seen this because we -- I think
13 the attorneys tried to match up the summaries
14 with what we had here in GFS.
15 Q. And you're pointing to what has been
16 marked as Deposition Exhibit 858; is that
17 correct?
18 A. Yes, 858. Sorry.
19 Q. And how did they try to match those
20 up?
21 A. For 9/12, you can see here that we
22 have the long inventory market value as 37.3
23 billion.
24 Q. And were you asked to create a summary
25 that also arrived at 37.3 billion?

1 Krishnan
2 Pfleiderer's declaration, "Strictly speaking,
3 the asset categories correspond to the various
4 values given in the GFS system for the 'GAAP
5 Asset Class 1 Name' variable associated with
6 each observation. (The specific category names
7 are slightly different when one observes entries
8 for long versus short positions, but the
9 categories are materially the same; for example,
10 'CDs & Other Money Market' versus 'Total CDs and
11 Other Money Market Instruments.' Exhibits 1 and
12 2 to this affidavit are based only on data for
13 long positions)." Do you see that?
14 A. Yes.
15 Q. Is that your understanding of how the
16 summaries in Deposition Exhibit 858 that you
17 said you prepared were prepared?
18 MR. THOMAS: Objection to the form of
19 the question.
20 A. I'm sorry, what was the question?
21 Q. My question is, the statements in
22 footnote 3, is it your understanding that they
23 hold true with respect to the summaries you
24 prepared that are in Deposition Exhibit 858?
25 MR. THOMAS: Objection to form.

1 Krishnan
2 MR. THOMAS: Objection to form.
3 A. No, I created a summary and we
4 confirmed that the numbers match.
5 Q. And when did you do that?
6 A. April of 2010, I think.
7 Q. Did you speak with Professor
8 Pfleiderer in that exercise?
9 A. No.
10 Q. Have you ever communicated with
11 Professor Pfleiderer?
12 A. No, I have never heard of his name
13 before.
14 Q. Are you aware that Professor
15 Pfleiderer is an expert that's been retained by
16 Barclays in this matter?
17 A. No, I don't know.
18 Q. Have you ever read any expert report
19 that's been prepared by Professor Pfleiderer?
20 A. No, I have not.
21 Q. Have you ever read the contents of
22 Professor Pfleiderer's declaration that's part
23 of Deposition Exhibit 791?
24 A. No, I don't recall reading this.
25 Q. If you turn to footnote 3 of Professor

1 Krishnan
2 A. I'm sorry, I don't understand why this
3 is not --
4 Q. Why don't I just break it down a
5 little bit. Where it says, "For instance,
6 Exhibits 1 and 2 to this affidavit are based
7 only on data for long positions," do you see
8 that?
9 A. Uh-huh.
10 Q. Is that also the case for the
11 summaries that you prepared that we have marked
12 in this deposition as Deposition Exhibit 858?
13 A. It has only long positions.
14 Q. Only long positions. Was it created
15 using a GFS report that only contained long
16 positions as opposed to the GFS reports with
17 both longs and shorts that have been produced to
18 us and that we have marked here as Deposition
19 Exhibits 836 through 843?
20 A. I think that we did not select a short
21 inventory -- I mean, if I remember right, we did
22 not select the feed which had the "Short
23 Inventory, TD at Market Value," because this is
24 what we wanted to compare with that, that other
25 PBF exhibit. I don't remember what the name

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was.

Q. The other PBF, you mean the declaration that you're looking at, Deposition Exhibit 791?

A. Right. Uh-huh.

Q. You were comparing when you prepared 858; is that correct?

A. No. No. We prepared this.

Q. You prepared 858?

A. And then we confirmed that these numbers tie. These numbers are long inventory positions, right? So we selected only long inventory positions. So that's how we can verify that what we have here is the same as what we would if we generated a report in the system.

Q. And were you able to do the summary using the actual GFS reports that were produced in this matter with the GFS reports with the equities, or did you need to go back into the GFS system in order to run the summary?

A. We went back to the GFS system to run the summary, meaning we created a new report which would give us a summary.

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Q. And the new report was a report that contained only the long positions; is that correct?

A. We selected only this feed, the long inventory. So, you know, if we had selected the short inventory, that would show up here.

Q. And so you can't say with a hundred percent certainty that the summary in 858 is a summary of, for instance, the September 12 data that's in Deposition Exhibit 836; is that correct?

MR. THOMAS: Objection to form.

A. No, I can say that because we built this data off what we did here.

Q. But correct me if I'm wrong, but you used the reports that were generated in order to prepare the summary that is Deposition Exhibit 858, or did you go back into the GFS system in order to create the summary that is in Deposition Exhibit 858?

A. We went back into the system to create this.

Q. So my question is, did you test the summary in 858 against what a summary of the

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actual GFS report, that is, for instance, Deposition Exhibit 836, would have generated using the relevant columns that we had discussed before?

MR. THOMAS: Objection to form.

THE WITNESS: Can I -- can I talk to you before I answer this?

MR. THOMAS: Does it relate to an attorney-client communications?

THE WITNESS: I don't know.

MR. THOMAS: Or just confusion about the question?

THE WITNESS: Because I just want a few minutes to talk to one of you.

MR. THOMAS: Okay.

MS. CARRERO: If we can just -- just get a yes/no answer and then we can take a break of was a comparison done to the reports, to the --

MR. THOMAS: If she's -- I'm not sure whether it involves attorney-client privilege, so I don't want to just -- if you're able to answer that question without getting into attorney-client privilege, you

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can do that. If not, if you're not sure if it may involve something that we have discussed, then we should take a break and talk about it first.

Q. I'm happy -- I just don't like to leave a question pending before we take a break. I'm happy to let you take a break and you can answer further or clarify your answer, but in terms of a yes/no as far as was any sort of comparison done between a summary of the GFS reports produced versus what a summary of, going back into the GFS system, and what a summary of that data would generate as in 858.

A. I would think that this is the comparison, you know, this was built off the Excel, I think.

Q. 791 you think was built off of the actual GFS reports that would be Deposition Exhibits 836 to --

A. That's correct.

Q. -- to 843? And then your summaries you went back into the GFS system and prepared; is that correct?

A. That's correct.

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Q. Thank you. If you still --

A. No. I just wanted to find out if I could say that.

Q. And for purposes of arriving at the -- so looking at 858 and the totals that appear next to each of the GAAP Asset Class 1 names, is it not a net -- let me reformulate this.

If I were to go into the GFS reports and look for the long inventory market value, I could do so by looking at this column "Long Inventory, TD@MV"; is that correct?

A. That's correct.

Q. Are market values also contained within the reports using a net position?

A. I'm sorry, could you repeat that?

Q. Is there a column that calculates market values for the net position for any given CUSIP, meaning both the longs and the shorts of that CUSIP?

A. I think there are feeds which do -- which are populated whether it's long or a short, but I'm not sure if they are captured in this report.

Q. And in order to determine the price of

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any given CUSIP that rolls up into the sum by asset class, how would you go about finding out the price for each CUSIP that, for instance, rolls up into the 37-billion-odd in governments and agencies?

A. You would go back to this Excel report, the 836, right?

Q. Yes.

A. So the 836, and you would -- you would filter all the total governments and agencies, that is, I think I mentioned it earlier, column BL and BM.

Q. So the "GAAP Asset Class 1" and the "GAAP Asset Class 1 Name"?

A. That's correct.

Q. Okay. So --

A. And --

Q. Filter those, go ahead.

A. And you would look for this column "Long Inventory, TD Market Value," which is column V.

Q. Okay.

A. And that would be the individual market value for each position.

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Q. And those are market values as opposed to prices; is that correct?

MR. THOMAS: Objection to form.

A. That's correct, they are market values.

Q. And how would you go about determining what the price was for any given security that rolls up into the sum?

A. So now that you have all the total governments and agencies, you can -- there's another feed here, which is "Clean Price" and "Dirty Price."

Q. Column AY and AZ?

A. Yes.

Q. And in order to arrive at the market value, would you need the factor as well?

A. Yes, we would need a factor, which is not here, and we would need the traded position, which is in the AV.

Q. And where would one find the factor that was used to calculate the market value?

A. I'm not sure if it is not included in this report or if it's not part of that report table that we have in GFS. So it may be part of

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some of the product information.

Q. And looking at the business date listed in the right-hand column of each of the pages of Deposition Exhibit 858, on the second page, for instance, it says September 15, 6 A.M.

Is the total reflective of the total at 6 A.M. on the business date reference?

A. No, the business date does not have the time in it. I think it was the data that was formatted in Excel.

Q. So 6 A.M. is not reflective of the time of day which this GFS data would reflect; is that correct?

A. Yes, that's correct.

Q. Turning your attention back to Deposition Exhibit 791, and looking at Exhibit 1, do you know if the CUSIPs on each of the days reflected between September 12 and September 19 were identical population of securities?

A. I don't know.

Q. And do you know if the price for the CUSIPs for the population of CUSIPs on each day would have changed between September 12 and September 19?

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<p>1 Krishnan 2 settlement date balances. 3 Q. And do you know what systems were the 4 subledger and general ledger of Lehman Brothers? 5 A. The general ledger was a system called 6 DBS, and I'm not really sure about the 7 subledger. It could be Posting Engine. I'm not 8 sure. 9 (Deposition Exhibit 860, a document 10 bearing Bates Nos. BCI-EX-(S)-00200951 11 through 53, with attachment, marked for 12 identification, as of this date.) 13 Q. Ms. Krishnan, you have before you what 14 has been marked as Deposition Exhibit 860. If 15 you could turn to the last page of that 16 document, which is titled "LBI Inventory by GAAP 17 Asset Class & BPM as at 9/16/2008," and which is 18 a native version of a document produced as 19 BCI-EX-(S)-00200964. Do you see that? 20 A. The last page, right? 21 Q. Yes. 22 A. Yes. 23 Q. Do you recognize the format of this 24 report as one being generated from GFS? 25 A. I think this is something that could</p>	<p>1 Krishnan 2 have been generated from GFS, but I cannot be 3 sure unless I know this title here, "LBI 4 Inventory by GAAP Asset Class & BPM." I don't 5 know, but these columns look like they could 6 have been pulled from a GFS report. 7 Q. But you have never seen a report 8 exactly in this format before; is that correct? 9 A. Yes, I have not seen anything like 10 this before. 11 Q. And in the title do you know what 12 "BPM" stands for? 13 A. Business Process Mapping, I think. 14 Q. And that's a reference to Lehman's 15 specific nomenclature, would that be correct? 16 A. Yes. 17 Q. For a specific asset types; is that 18 correct? 19 A. I think it may be for the asset type 20 or sometimes the accounts are also split into 21 BPMs. 22 Q. Or would it be a reference to the 23 divisions in column B? 24 A. In this context, it seems to be the 25 division, but I don't know why they said BPM.</p>
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<p>1 Krishnan 2 Q. And are you familiar with the 3 different division names that are listed in 4 column B? 5 A. Yes, these look familiar. 6 Q. And looking at the divisions 7 corresponding to "Total Corporate Stocks & 8 Options," for instance, what would "Principal 9 Investing" relate to? 10 A. I don't know what it would relate to, 11 but these look familiar. The data looks 12 familiar. 13 Q. Do you know if all of the divisions 14 that are listed in column B in this exhibit 15 would be captured within the summaries in 858 as 16 well as the reports between Deposition Exhibit 17 836 through 843? 18 A. I would think so, but you can also 19 verify by, you know, looking up each of these in 20 the 836. 21 Q. And would you in your role at Lehman 22 have been one to have generated a report such as 23 this one in Deposition Exhibit 860? 24 A. I have not generated a report like 25 this before.</p>	<p>1 Krishnan 2 Q. And who would you expect would be the 3 group that would normally generate such reports? 4 A. I would expect the users to -- I would 5 think that the users would generate reports like 6 this because they had the capability to make 7 their -- customize their own reports, and we 8 have no responsibility over what kinds of 9 reports they generate. 10 Q. And the users would be the Product 11 Control Group and Finance? 12 A. Project Control and Finance. 13 Q. So that's yes, the Product Control 14 Group and the financial controllers, correct? 15 A. Yes. And when I said we have no 16 responsibility, what I mean is if someone gives 17 us the report and tells us to look at it, we can 18 look at it, but on a daily basis, we are not 19 looking at what reports the users generate and 20 what reports they run. 21 MS. CARRERO: If we can just take five 22 minutes, I think I'm done, but I just want 23 to look over my notes really quick. 24 (Recess; Time Noted: 3:12 P.M.) 25 (Time Noted: 3:30 P.M.)</p>

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<p>1 Krishnan</p> <p>2 company, I guess they would have put collateral.</p> <p>3 Q. And do you know one way or the other,</p> <p>4 ma'am, whether securities posted as collateral</p> <p>5 for derivative positions would be included or</p> <p>6 excluded from the assets that are under any of</p> <p>7 the six GAAP asset classes within GFS?</p> <p>8 A. I don't know.</p> <p>9 Q. You referenced in your testimony</p> <p>10 earlier a DBS system?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Can you tell me again what that is,</p> <p>13 please?</p> <p>14 A. The DBS is also called the general</p> <p>15 ledger. I don't really know what "DBS" stands</p> <p>16 for. It's called general ledger or DBS.</p> <p>17 Q. And the number for LBI is quadruple</p> <p>18 zero?</p> <p>19 MR. THOMAS: Objection to form.</p> <p>20 Q. Quadruple zero, 0000?</p> <p>21 A. I think so.</p> <p>22 Q. If, and you may not know this one way</p> <p>23 or the other, if LBI held securities for an</p> <p>24 affiliate of LBI, do you know if those --</p> <p>25 withdrawn. Let me try again.</p>	<p>1 Krishnan</p> <p>2 If LBI held option positions for an</p> <p>3 affiliate of LBI, would those options positions</p> <p>4 be reflected in GFS under the DBS number 0000</p> <p>5 for LBI or the DBS number for the relevant</p> <p>6 affiliate?</p> <p>7 A. I don't know.</p> <p>8 Q. The GAAP asset class "Derivatives and</p> <p>9 Other Contracts," ma'am, do you know whether</p> <p>10 that includes or excludes over-the-counter</p> <p>11 derivatives?</p> <p>12 A. I'm sorry?</p> <p>13 Q. The GAAP asset class within GFS of</p> <p>14 "Total Derivatives and Other Contracts"?</p> <p>15 A. Uh-huh.</p> <p>16 Q. Are you with me?</p> <p>17 A. Yes.</p> <p>18 Q. Does that -- do you know one way or</p> <p>19 the other whether or not that includes</p> <p>20 over-the-counter derivatives?</p> <p>21 A. I don't know.</p> <p>22 Q. Could you have in front of you Exhibit</p> <p>23 858, please? Do you have it there?</p> <p>24 A. Uh-huh.</p> <p>25 Q. I believe you testified that you</p>
Page 152	Page 153
<p>1 Krishnan</p> <p>2 created this summary, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And this has only long inventory</p> <p>5 positions and not short inventory positions,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Can you tell me why you excluded from</p> <p>9 this the short inventory positions?</p> <p>10 A. The purpose of this was to create a</p> <p>11 report of GFS and see if these numbers tie out</p> <p>12 with the other number. I don't remember the</p> <p>13 number.</p> <p>14 Q. With the numbers that are in Professor</p> <p>15 Pfleiderer's declaration, Exhibit 791?</p> <p>16 A. Yes. So these are long inventory</p> <p>17 market values, right?</p> <p>18 Q. Right.</p> <p>19 A. So that's why we did not pick the</p> <p>20 short inventory here. That's why we did not</p> <p>21 choose them.</p> <p>22 Q. If you wanted to create a summary</p> <p>23 similar to Exhibit 858 --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- for short --</p>	<p>1 Krishnan</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- inventory positions with respect to</p> <p>4 the same dates that are in your summaries at</p> <p>5 858, how would you go about that?</p> <p>6 A. I would -- I would include the short</p> <p>7 inventory instead of this long inventory, and I</p> <p>8 would create a new report on it of GFS.</p> <p>9 Q. With a little more specificity, and</p> <p>10 with reference perhaps to Exhibit 837, if that</p> <p>11 would be helpful for you, could you tell me how</p> <p>12 it is you would go about creating that report?</p> <p>13 A. 837 is this Excel? The full report?</p> <p>14 Q. Yes.</p> <p>15 A. Okay. First of all, I did not make</p> <p>16 this report from here. I ran it from GFS</p> <p>17 system.</p> <p>18 Q. Okay. And just so the record is</p> <p>19 clear, when you say "this report," you're</p> <p>20 referring to Exhibit 858?</p> <p>21 A. Yes, Exhibit 858.</p> <p>22 Q. Okay. So let's try it this way. Can</p> <p>23 you tell me with reference to -- withdrawn.</p> <p>24 Would it be possible to create the</p> <p>25 short inventory analog of Exhibit 858 from</p>

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<p>1 Krishnan 2 Exhibit 837? 3 A. Yes, I think so. 4 Q. Can you please tell me how you would 5 go about that? 6 A. You would filter on the "GAAP Asset 7 Class 1 Number" and the name and you would -- 8 you would pick just the "Short Inventory, TD at 9 Market Value." 10 Q. Uh-huh. 11 A. And then you may have to, you know, 12 like do some sort of summing or pivoting in 13 Excel, I'm not very familiar with how they do it 14 in Excel, and you would get the numbers for the 15 short inventory. 16 Q. Could you looking at Exhibit 837, 17 could you identify the particular columns that 18 you would use in order to create the short 19 inventory analog of Exhibit 858? 20 A. I would pick the -- 836. I would pick 21 the AB and BL and BM and probably the business 22 date -- I don't know where that is -- which is 23 BU. 24 Q. Sticking with Exhibit 837, the column 25 BU that you just referred to includes not just</p>	<p>1 Krishnan 2 the date but also the time, ma'am, you see that? 3 A. Yeah, but I was just telling -- 4 Q. Ms. Carrero? 5 A. -- that the time is not relevant 6 because it's based on the date I think it's some 7 formatting in Excel. 8 Q. So there's no -- the time of 6 A.M.? 9 A. It just -- 10 Q. -- is inaccurate? 11 A. Yeah. 12 Q. And separate and apart from the 13 inclusion in Deposition Exhibit 837, column BU, 14 of the 6 A.M. time, is this data reflective of 15 end of day or beginning of day prices? 16 A. End of day. 17 Q. And if you could turn to Exhibit 831 18 and to the last column, which is BT, again 19 headed "Business Date"? 20 A. Uh-huh. 21 Q. Is the answer the same to the same 22 question: Does the data in Exhibit 831 reflect 23 the values within GFS -- and I use values 24 generally speaking, not specifically 25 monetarily -- as at the end of the business day?</p>
Page 156	Page 157
<p>1 Krishnan 2 A. Yes, that's correct. 3 Q. Could you have Exhibit 19 in front of 4 you briefly, please? That's a one-page document 5 shown to you at the end of the deposition. 6 Do you have it there? 7 A. Uh-huh. 8 Q. You see at the top left-hand side 9 under "Assets" -- 10 A. Uh-huh. 11 Q. -- that there are seven entries above 12 the line that says "Total," beginning with "Gov. 13 and AG"? 14 A. Uh-huh. 15 Q. And going down through "Cash," do you 16 see those? 17 A. Yes. Yes. 18 Q. With the exception of the cash, do you 19 agree that those six asset categories are 20 reflective of the six GAAP asset categories that 21 are held within GFS? 22 MR. THOMAS: Objection to form. 23 Foundation. 24 A. I -- I don't know. The names are 25 different, so I'll go by the names.</p>	<p>1 Krishnan 2 Q. Which names are different, ma'am? 3 A. I'm sorry? 4 Q. Which names are different? 5 A. The GAAP asset class names that I have 6 in the GFS summary report are different from 7 what they are here. 8 Q. Do you think it's possible that these 9 are -- the entries, those six entries on Exhibit 10 19, are shorthand for the GAAP asset classes as 11 reflected in the GFS system? 12 MR. THOMAS: Objection to form. 13 Foundation. Calls for speculation. 14 You can answer or respond at least. 15 A. I'm too tired. I don't know what it 16 means. I don't know. I -- I really don't know. 17 MR. OXFORD: Okay. I have no further 18 questions. I believe Mr. Thomas has some 19 for you. 20 MR. THOMAS: I do. 21 EXAMINATION BY 22 MR. THOMAS: 23 Q. Let me ask you to turn to Deposition 24 Exhibit 859, please, which is the e-mail chain 25 from Ms. Carrero.</p>

Krishnan

At some point in 2009 were you asked to run -- asked by Barclays' lawyers to run GFS reports?

A. Yes, that's correct.

Q. Are the reports that you were asked to run at that time described in Ms. Carrero's e-mail here under "Report Group"?

A. Uh-huh. Balance sheet positions, yes.

Q. So you recognize this report with the description "Report Group," "Report Categories," "Report Type," "Report Name," "Custom Filter and Dates," you recognize that as the report that Barclays' attorneys asked you to run in 2009?

A. That's correct, yes.

Q. And did you in fact run that report?

A. Yes, we did.

Q. And did you provide it to Barclays' lawyers?

A. Yes.

Q. And is it your understanding those reports were provided to movants in this case? Is it your understanding that those reports were provided to LBHI in this case?

A. Yes, it looks like it. I see it in

Krishnan

the exhibits.

Q. If I can ask you to turn -- That's good point. If I ask you to turn to the stack of deposition exhibits which are 844 to 856. I know you were asked questions about this previously.

Does this appear to be excerpts of the reports that you ran consistent with the report request described in Deposition Exhibit 859?

A. Yes, that's correct.

Q. Okay. And looking at it up on the screen, and if I could ask you to just scroll down, please, so we're looking at the electronic version of 844, and does this appear to be the report that you ran in response to the report request described in Deposition Exhibit 859?

A. That's correct.

Q. And did there come a time when you were asked to modify the report or the filter in any way?

A. Yes, we were asked to modify the filter so we would also include the equities in this report.

Q. Was that sometime in 2010?

Krishnan

A. Yes.

Q. And did you run such reports?

A. Yes, we did.

Q. And if I could ask you to look at the stack of deposition exhibits that contain Depo Exhibits 836 through 843, please.

A. Yeah.

Q. And does this appear to be extracts of the reports that you were later asked to do that contained equities?

A. That's correct.

Q. And in order to produce this report, you had to modify or change the report requests contained in Deposition Exhibit 859?

A. Right, we had to change the filter to include the LBIs and remove the exclusion that it had on the equities.

Q. And if I could ask you to look electronically on the screen at Deposition Exhibit 836?

A. Uh-huh.

Q. And if I could ask counsel to scroll down for me, please.

And you're pointing at the screen.

Krishnan

What are you pointing to?

A. "Sum Equities."

Q. Okay. And do you recognize this as a report you produced in 2010 that included the equities?

A. That's correct.

Q. And did this include all the long positions in the GFS system?

A. Yes, it included everything in GFS with that filter, with the LBI filter. It just included everything that was in LBI.

Q. Okay. And that would be all the long positions including equities?

A. Yes.

Q. When you produced these reports, did you try to make sure you did so accurately?

A. Yes, we did.

Q. And you believe the reports accurately reflect the data in the GFS system?

A. That's correct.

Q. And you were also shown Deposition Exhibit 791, which is BCI Exhibit 779, and in the middle of the page -- you've got it there -- it's a chart entitled "Summary of GFS Daily

1 Krishnan
2 Exposure Report," do you see that?
3 A. Yes.
4 Q. At some point then were you asked to
5 ensure or to check whether these summary data
6 were consistent with the data in the GFS system?
7 A. That's correct.
8 Q. For good measure, let me go ahead and
9 mark Deposition Exhibit 808 -- excuse me. Let
10 me ask that we mark BCI Exhibit No. 808 as
11 Deposition Exhibit number 861.
12 (Deposition Exhibit 861, Summary of
13 GFS Daily Exposure Reports, September 12-19,
14 2008, marked for identification, as of this
15 date.)
16 MR. THOMAS: Let me also ask that we
17 mark BCI Exhibit No. 809 as Deposition
18 Exhibit 862.
19 (Deposition Exhibit 862, a document
20 bearing Bates Nos. BCI-EX-00302963, with
21 attachment, marked for identification, as of
22 this date.)
23 MR. OXFORD: Just so I'm clear, Todd,
24 are these the exhibits to Professor
25 Pfleiderer's April declaration?

1 Krishnan
2 A. Yes, that's correct.
3 Q. And this was something you created out
4 of GFS yourself?
5 A. Yes.
6 Q. Did the numbers that you looked at in
7 GFS and used to create 858 match up with the
8 numbers in Deposition Exhibits 861, 862 and 791?
9 A. Yes, they matched.
10 Q. So do the numbers in these charts in
11 Deposition Exhibits 861, 862 and 791 accurately
12 reflect the data in the GFS system?
13 A. Yes.
14 Q. Are you familiar with the expression
15 "T+1"?
16 A. Yes.
17 Q. Would you explain what that means?
18 A. It means trade date plus one.
19 Q. Can you explain how that relates to
20 the Lehman GFS system as of September 2008?
21 A. What it means is that when, for
22 September 12, the data is available the next
23 business date, which is the Monday. "T+1"
24 actually means the trade date plus one business
25 date. So for the 12th, the data is available

1 Krishnan
2 MR. THOMAS: I think they are
3 free-standing exhibits, although they may be
4 the exact same.
5 MR. OXFORD: Thank you.
6 Q. And I'm going ask you to look at -- we
7 now have three charts in front of you,
8 Deposition Exhibit 861, Deposition Exhibit 862,
9 and Deposition Exhibit 791 --
10 A. Okay.
11 Q. -- titled "Summary of GFS Daily
12 Exposure Report"?
13 A. Uh-huh.
14 Q. And if you could take a moment to
15 confirm whether the data is essentially the same
16 in the charts.
17 A. Yes.
18 Q. Okay. And did you confirm that the
19 data reflected in the three deposition exhibits
20 you're looking at is accurate and accurately
21 reflects the data contained in the GFS system
22 for these dates?
23 A. Yes, I did.
24 Q. And as part of that effort, did you
25 create Deposition Exhibit 858?

1 Krishnan
2 for users to view on the 15th morning.
3 Q. Let's, for example, use the date of
4 September 16. When would the data for the 16th
5 initially, initial data, come into the system?
6 MR. OXFORD: Objection. Form.
7 A. Can I answer it?
8 Q. You can answer.
9 A. So the data would come in on the
10 evening of September 16. It would keep coming
11 between September 16 night and September 17
12 early morning, and by September 17, say around 8
13 A.M. or 9 A.M., the system is ready with the
14 start of day numbers.
15 Q. And are there further adjustments that
16 are made to the September 16 numbers on the
17 17th?
18 A. Yes.
19 MR. OXFORD: Objection. Form.
20 A. Yes. The users have the capability to
21 make adjustments on September 17 for September
22 16 data.
23 Q. Is there a cut-off time in the system
24 for such adjustments on the day after?
25 A. Yes. 6 P.M. is the cut-off time.

Krishnan

Users usually put in adjustments before 5:30 to make sure that the adjustments go through.

Q. So for data, for example, on September 16, when would complete data on Lehman's positions be available for September 16?

A. Somewhere between 6 P.M. on September 17 and 7 P.M., somewhere between that time you would have the complete data.

Q. And is that what's referred to as T+1 because the data isn't available until the night of the next day?

A. We refer to it as T+1 because even the start of day data is not available till, for September 16, is not available until September 17. So it's trade date September 16 plus one, September 17.

Q. And the data that flows into the GFS system, that's from other Lehman systems?

A. Yes.

Q. And several times in your testimony today you have used the term "market value," and we've looked at the term "market value" as used in the GFS system and the GFS reports. Do you recall that?

Krishnan

A. Uh-huh. Yes. Sorry.

Q. And what is your understanding of what the term "market value" means in the GFS system and as you were using it?

A. My understanding is that, based on the end-of-day balances and the end-of-day prices, the system calculates the market value, and also, the system is open for users to make any adjustments to the price or the quantity, to modify it in any way.

Q. If we see something that says "market value" in the GFS system or a GFS report, is that simply a calculation of whatever price is there times the quantity of the position?

A. Most times that's true, but sometimes there is a pricing factor or a multiplier involved.

Q. The price that's in the GFS system?

A. Uh-huh.

Q. Do you know, is that -- that price is being fed into the GFS system by some other system, correct?

A. Sorry?

Q. That price is being fed, flowed into

Krishnan

GFS from some other system?

A. That's correct.

Q. And do you know if the price that's coming into GFS is an exit or last price?

A. I think --

MR. OXFORD: Objection. Form.

A. I think it may be the last price because we get the end-of-day balances.

Q. So the "market value" phrase used in GFS and the GFS reports, as you understand it, would be the last price that you receive from another source times the quantity of the position held?

A. Yes, that's my understanding.

Q. You were asked earlier about a special environment that was created for data as of September 12, do you recall that?

A. Yes.

Q. And I think you were asked some questions concerning whether you could -- whether the data for September 12 in the GFS system could have been modified anytime after September 15, and I just want to be specific. What periods of time could the data in

Krishnan

the GFS have been modified?

A. For September 12, specifically, it could have been modified on September 15, or at the time that we set up the special environment, after October 28 of 2008.

MR. THOMAS: And let me go ahead and mark another document. We'll mark as Deposition Exhibit 863.

(Deposition Exhibit 863, an e-mail from Nadya Romero dated October 27, 2008, with attachment, marked for identification, as of this date.)

Q. Were you personally involved in helping set up this special environment for September 12?

A. Yes, I was.

Q. And I've shown you a document that's an e-mail chain and attachment entitled "9/12 Global Consolidated Close - on behalf of Alvarez & Marsal"?

A. Uh-huh.

Q. You see it's sent to some group named "DBS USERS"?

A. That's right.

1 Krishnan
2 Q. Do you believe that you would have
3 been included as part of that group?
4 A. I might have been included.
5 Q. Do you recall this project that's
6 being described here in this e-mail chain?
7 A. Yes, I was very much involved in this
8 project and but I cannot remember exactly
9 getting this e-mail because it was way back in
10 October 2008.
11 Q. But you were personally involved in
12 this project?
13 A. Yes, I was.
14 Q. And at whose request was this project
15 done?
16 A. It -- my understanding was that it was
17 done for LBHI and LBI.
18 Q. And at the top of this it says "on
19 behalf of Alvarez & Marsal." Did you have an
20 understanding that Alvarez & Marsal was kind of
21 running LBHI at this time?
22 A. Yes, that's correct.
23 Q. And in one of the recipients here, do
24 you see David Coles?
25 A. Uh-huh.

1 Krishnan
2 Lehman after the closing of the Barclays deal on
3 September 22, those that had access to the GFS
4 prior to the closing, would they have continued
5 to have access afterwards?
6 A. I believe so.
7 Q. Was there anything, to your knowledge,
8 done that would have stopped that access?
9 A. I don't think we did anything in GFS
10 to stop anybody's access.
11 Q. And so on September 22 someone with
12 access at Lehman could go into GFS and look at
13 whatever values in the GFS system they wanted?
14 A. Yes, I believe so.
15 Q. And for 23 days, they could -- they
16 could go back 23 days in time to see any values
17 they wanted to in GFS?
18 A. That's correct. Yes.
19 Q. This effort, this project described in
20 this e-mail, Exhibit 863, would have been more
21 than 23 days after September 12; is that
22 correct?
23 A. That's correct.
24 Q. Now, was this special environment set
25 up so that Alvarez and LBHI and LBI could do

1 Krishnan
2 Q. Were you aware that he was the CFO of
3 Lehman, LBHI?
4 A. I'm not -- I'm not sure.
5 Q. Okay. And what was your understanding
6 of why there was a special environment being set
7 up?
8 A. My understanding was that the input
9 data that we received for September 12 might
10 have had some problems, or on September 15, the
11 users did not probably do the adjustments that
12 they were supposed to do and that's why we had
13 to set up this whole new environment so that
14 they are able to put in adjustments for
15 September 12.
16 Q. So normally adjustments for a
17 particular day can only be made in the GFS
18 system for the next day up until a certain time?
19 A. That's correct. Next day until 6 P.M.
20 Q. And did you mention earlier something
21 about a 23-day period?
22 A. GFS just holds the last 23 business
23 days of data, but users are not able to adjust
24 this.
25 Q. So for someone at Lehman who stayed at

1 Krishnan
2 whatever they wanted to do with respect to
3 September 12 data?
4 MR. OXFORD: Objection. Form.
5 Foundation.
6 MS. CARRERO: Same objection.
7 MR. DAKIS: Same objection.
8 A. Can I answer it?
9 Q. You can answer.
10 A. I don't know what -- I mean, I don't
11 know what they did, but what I can say is that
12 I've seen adjustments for September 12 in the
13 special environment that was set up. So I guess
14 they did change the data after this environment
15 was set up.
16 Q. And by "they," you're referring to
17 Lehman and Alvarez & Marsal?
18 A. That's correct.
19 Q. And you personally have seen those
20 adjustments?
21 A. Yes, I've seen those adjustments.
22 Q. Were there many adjustments?
23 A. I think there were about 7,000
24 adjustments.
25 Q. Now, the data that's reflected in the

Krishnan

GFS reports that you ran and that we've discussed here today and that were marked as deposition exhibits, were they, the data for September 12, would that reflect the adjustments made to the September 12 data by Alvarez & Marsal and Lehman as part of this project?

A. Yes, that's correct. We pulled the September 12 data from the special environment that we set up.

MR. DAKIS: Objection to the form of the question.

Q. Now, after 23 days had passed, could a user then ask your group to check the archives and provide data from GFS?

A. Yes, they could.

Q. Was it common for there to be a significant number of adjustments to pricing information in the GFS system on the day after?

A. Yes.

Q. And were those adjustments frequently significant?

MR. OXFORD: Objection. Form.

A. Yes, they would -- they could potentially affect the numbers.

Krishnan

was just in the special environment that we had set up.

Q. And how would you determine how many adjustments had been made on September 15?

A. We have a table which records on what date the adjustments were made, so based on that we can determine.

Q. And Mr. Thomas asked you about the concept of trade date plus one, do you recall that?

A. Yes.

Q. And does trade date plus one refer to only the closing of the adjustment period the day after?

A. The trade date plus one means that, after the actual trade date, one date after the actual trade date, the reports are available for the trade date. So the trade date and the business date mean the same.

Q. But earlier you had testified that if one were to go into the system the following morning, that any of the feeds into GFS would be in the GFS system; is that correct?

A. Yes.

Krishnan

Q. So when you were previously asked about the process being automated with feeds, were you not including the day-after process of people going in and making adjustments to the price?

A. That's correct, I only included the feed files that we get from the rating systems.

MR. THOMAS: I have nothing further.

FURTHER EXAMINATION BY

MS. CARRERO:

Q. I have a few follow-up questions for you, Ms. Krishnan.

When Mr. Thomas asked you about adjustments to the September 12 data and you said something in the neighborhood of 7,000 adjustments had been made; is that correct?

A. Somewhere in the neighborhood. I don't know the exact number.

Q. And does that include adjustments that were made on September 15 as well as any later adjustments?

A. It -- I don't think that number includes the -- it's too far back. I don't remember, but I think it's the 7,000 adjustments

Krishnan

Q. And so when we talk about trade date plus one?

A. Uh-huh.

Q. Are we referring to the close of the adjustment period as opposed to the availability of the flow of information into GFS; is that correct?

MR. THOMAS: Objection to form.

A. On the trade date plus one morning, the reports are available, but the data keeps changing continuously because of the adjustments that come through during the day.

Q. So if one were to access the system say at 8 P.M. on September 12, is it fair to say that feasibly some of the information has already flowed into the system and one would be able to see what systems had already flowed in?

MR. THOMAS: Objection to form.

A. On for -- like let's -- can we take an example like September 12?

Q. Sure. So, for instance, if one were to look at the GFS system at 8 P.M. on September 12 and say the TMS system had already fed into GFS, would you be able to ascertain that that

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1 Krishnan
2 flow had happened already?
3 A. No, we would have to have all the --
4 all the feeds in before the TMS -- before the
5 balance sheet is ready.
6 Q. My question is not about the entire
7 balance sheet being ready, but if a moment in
8 time, say 8 P.M. on September 12, you were to go
9 into GFS --
10 A. Uh-huh.
11 Q. -- and look at any given CUSIP, if the
12 system -- if a system related to that CUSIP had
13 already fed in and updated a price, would you be
14 able to tell that at 8 P.M.?
15 MR. THOMAS: Objection to form.
16 A. See, when we get the feeds, we load
17 them into some tables and we do a lot of
18 processing after that. So just because we got
19 one feed at 8 P.M. doesn't mean that a user is
20 able to view a report based off that feed.
21 Q. If one were to query a specific CUSIP,
22 for instance, at 8 P.M. and that system -- that
23 CUSIP, whatever system it is that updates that
24 particular CUSIP had already fed in, would one
25 at 8 P.M. see a new price for that CUSIP?

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1 Krishnan
2 A. I don't know if the user can see it
3 based on the feeds that got in, but GFS was
4 built to serve the European users as well as the
5 New York users, so at some point earlier in the
6 morning of September -- I mean, September 12 is
7 a Friday. It's a bad example. Say September
8 15. At some point early in the morning on
9 September 16, the European users, you know, if
10 they still were looking at GFS at that point of
11 time, they would have been able to look at the
12 data.
13 Q. And so if, take, for instance, the
14 London market would be five hours ahead of New
15 York; is that correct?
16 A. Uh-huh.
17 Q. And so if the London office wanted to
18 see the close of day prices for, say, September
19 15, would it be your expectation they would have
20 been able to see that at UK open, you know,
21 which would have been around --
22 MR. THOMAS: You were off by two hours
23 last time.
24 Q. -- 4 A.M. So around 4 A.M. New York
25 time, if someone in the UK would query the GFS

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1 Krishnan
2 MR. THOMAS: Objection to form.
3 A. First of all, the system takes some
4 time. Take, for example, September 12 night we
5 get a feed. It takes -- it is ready for
6 September 12 viewing only after like a few hours
7 after it gets all the feeds and it processes.
8 So if you are talking about a user
9 being able to see a price that was entered at 8
10 P.M., I don't think that's possible. They're
11 not going to be able --
12 Q. I'm not asking about it being entered
13 at 8 P.M., I'm asking about a system that has
14 already fed into GFS. I believe your earlier
15 testimony that was between 8 P.M. and 2 A.M., a
16 number of systems feed into GFS.
17 My question is if one of the systems
18 that feeds in around 8 P.M., if for a CUSIP
19 related to that system you were to go into GFS
20 and look at the price for that CUSIP, would you
21 be able to see the price that had just fed in
22 from whatever system populates the price for
23 that CUSIP?
24 MR. THOMAS: Objection to form. Asked
25 and answered.

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1 Krishnan
2 system at 9 A.M. their time, would they be able
3 to see certain feeds from the previous evening's
4 close in the U.S.?
5 A. I think that's possible.
6 Q. Are some of the positions within GFS
7 updated by traders in other offices other than
8 just the U.S.?
9 A. I think European users had access to
10 making adjustments, so --
11 Q. And would you expect that their
12 adjustments, given the time difference, would
13 have been made earlier than those for anyone in
14 the U.S.?
15 MR. THOMAS: Objection to form.
16 A. I would -- I would expect that they
17 might have made adjustments earlier.
18 Q. And just to confirm, all of the GFS
19 reports that you were asked to create for
20 purposes of this litigation and that were
21 produced include both long and short positions
22 within GFS; is that correct?
23 MR. THOMAS: Objection to form.
24 A. The full reports included the long and
25 the short positions.

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Q. And in order to ascertain the price for a number of the fixed income positions captured within the GFS reports, you would need to know the factor; is that correct?

A. Yes, that's correct.

Q. And do you know where the factor comes from?

A. I'm not sure if it's one place for all the systems. For some systems it might have come in the systems feeds or for some systems we might have picked it from some other source. I don't -- I don't know that, where we get it exactly.

Q. And how many people within your group at Lehman went over to Barclays?

A. Actually, all of us in New York went to Barclays.

Q. And did all of you go to Barclays in September of 2008?

A. Sometime in September, that's correct.

Q. And do you know if there was any trainings provided with respect to GFS to the estate or any of its -- anyone left to manage the estate?

Krishnan

A. Training for the people who were part of the Lehman estate?

Q. My question I guess relates to the departure of your group from Barclays and how was the estate brought up to speed on the existence and functions of GFS?

A. From the technology side, we were supporting also the Lehman estate. So if they had any questions or issues, they would still come to us.

Q. And that would include the TSA?

A. Yes.

MR. THOMAS: Objection to form.

Q. And so, in order for any adjustments to be made to September 12 data, would it have been routed through your group?

MR. THOMAS: Objection to form.

A. The users in the Lehman side, most of them had already access to adjustments so they were able to make the adjustments systematically. They didn't have to come to us to enter the adjustment.

Q. And who would those users have been that were able to make adjustments?

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A. I don't have the list with me.

Q. Is it a certain group that would have been making adjustments?

A. I would think that they were from LBI and LBHI because we made the special environment for them.

Q. But my question is, within those entities, was it a specific group that would have been making any such adjustments?

A. I would think that they would be -- they would have been part of Financial Control in Lehman who probably moved to the Lehman estate and they helped in the close.

Q. And just one last point of clarification. When Mr. Thomas asked you if you recalled seeing the report path in Deposition Exhibit 859 and whether you had been asked by the lawyers to run those reports in late 2009, I believe you had answered yes; is that correct?

MR. THOMAS: Objection to form.

A. Yes.

Q. Earlier I believe that when we had discussed Deposition Exhibits 844 to 856 you had referenced SAM tickets and didn't recall any

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specific requests from anyone in particular.

Is it -- has that testimony changed?

MR. THOMAS: Objection to form.

A. No. What I meant is this detail was there in the SAM ticket when we ran the reports.

Q. And do you recall being asked by anyone in particular to run the report, or you just saw a SAM ticket; is that your testimony?

MR. THOMAS: Objection to form.

A. Usually what happens is there are coordinators who line up these requests in a SAM ticket and let us know that there is a ticket for us and request for us to generate the reports, and that's what probably happened.

Q. And so do you recall the lawyers asking you to run the reports, or you just recall a SAM ticket that had a specific report path and that you ran?

MR. THOMAS: Objection to form.

A. I don't understand what difference it makes because, you know, the SAM ticket has all the details, the same details that you have in this e-mail, and that's what we ran. So when he asked if this is what we ran, and this detail,

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the same detail was there in the SAM ticket, and that's what we based the reports off and we ran the reports.

Q. And when you reran the reports with the equities, did you have conversations about the reports to be run or was it based solely on SAM tickets with a different report path --

MR. THOMAS: Objection to form.

Q. -- satisfied?

MR. THOMAS: Objection to form.

A. We might have had conversations. I don't remember.

Q. And your testimony about the reports that were generated with the equities, which were Deposition Exhibits 836 to 843, was that the custom entity filter was removed; is that correct?

A. Yes, the custom filter was changed so this LBI entity would include the equities.

Q. And do you know if a report using the custom filter that was used to generate the GFS reports with equities was used regularly by the product controllers at Lehman?

MR. THOMAS: Objection to form.

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A. I don't know.

Q. And do you recall how it was determined that the custom filter would be changed?

A. I don't know, but I think it is because we had -- we didn't have -- I mean, the report didn't have the equities and we found that the reason is because the filter was excluding them and we included the equities.

Q. And do you know if the equities balance sheets were created based off of GFS?

MR. THOMAS: Objection to form.

A. I don't know.

MS. CARRERO: That's it.

MR. OXFORD: I've got a couple follow-up questions.

MR. DAKIS: Me too, actually.

MR. OXFORD: I don't mind who goes first.

MR. THOMAS: I'll go last.

MR. OXFORD: Do you want to --

MR. DAKIS: No, you might pick up on it.

FURTHER EXAMINATION BY

Krishnan

MR. OXFORD:

Q. Ms. Krishnan, you told Mr. Thomas, I believe, that the reports that you ran from GFS that were marked as the deposition exhibits that we looked at today, for the 12th they were run from the special environment, correct?

A. That's correct.

Q. Is the same also true of the data in these reports from the 19th of September?

A. For the 19th, I'm not -- see, there were no changes made to the 19th data, so the -- we might have pulled it from Production all the special environment that we set up.

Q. Can you explain what you mean by "production" in that last answer?

A. The Production is a GFS online system.

Q. And for the data for the days between the 12th and the 19th, that would have been pulled from what you call the Production environment, correct?

A. No, between the 12th and the 19th, the 15th, 16th, 17th and 18th, they were not available online at the time that we had got this request, so we had to pull it from the data

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archive.

Q. And was the 19th available online or was that also needed to be pulled from the data archive?

A. The 19th was available online because we had the special environment, but if we had the 19th data from the data archive, we might have pulled it from there or we might have pulled it from the special environment.

Q. The adjustments that you have testified that were made to the GFS data between the -- withdrawn. I'll start it again.

You testified that certain adjustments were made to the GFS data in your reports from the 12th through the 19th of September, 2008?

MR. THOMAS: Objection to form.

A. I'm sorry?

Q. Is it your testimony that adjustments were only made to the September 15th data in the special environment?

A. The September 12th data.

Q. Only September 12 data in the special environment was adjusted. The 7,000 adjustments didn't relate to data from the 15th to the 19th?

1 Krishnan
2 A. That's correct.
3 Q. And can you tell me how it is you're
4 aware that these 7,000 adjustments were made?
5 A. Because we record the adjustments in a
6 table in GFS.
7 Q. And who is "we"?
8 A. The system.
9 Q. The GFS automatically records any
10 adjustment made in the special environment,
11 correct?
12 A. That's correct.
13 Q. And does it record the user who made
14 that adjustment?
15 A. Yes, it has a user.
16 Q. And have you reviewed those 7,000
17 adjustments?
18 A. No.
19 Q. Have you reviewed any one of those
20 7,000 adjustments?
21 A. No.
22 Q. So how is it that you're able to
23 testify under oath that you know who made those
24 adjustments?
25 A. This special environment was created

1 Krishnan
2 the special environment; is that correct?
3 A. Right, because that's because of my
4 memory loss.
5 Q. It happens to us all, Ms. Krishnan.
6 The reports that you and your team
7 generated that have been marked as exhibits, and
8 I'll focus specifically on Exhibits 381 and 837
9 that I asked you about earlier, is it your
10 testimony that they relate only to LBI data?
11 A. Yes, we applied the filter to include
12 only LBI.
13 Q. Did you or anybody operating on your
14 behalf check that data to make sure that it
15 didn't include data that relates to a Lehman
16 entity other than LBI?
17 A. Well, we don't have to check because
18 when we run the query to include only the LBI,
19 that's what the system would do.
20 Q. So no one ever checked, that's your
21 testimony?
22 MR. THOMAS: Objection to form.
23 A. We don't go there and check like so
24 many records to see if there is only LBI
25 entities. That's the way the system is supposed

1 Krishnan
2 for LBI and LBHI.
3 Q. Uh-huh.
4 A. And the users that made the
5 adjustments are recorded in the table, but I
6 don't think I said I am -- I said I'm guessing
7 that they would have made the adjustments.
8 Q. Right. But you don't know?
9 MR. THOMAS: Objection to form.
10 A. I don't. I would say I would expect
11 that LBI and LBHI would have made the
12 adjustments.
13 Q. Who from LBI do you believe has access
14 to this data?
15 A. I don't know.
16 Q. You couldn't identify a person from
17 LBI?
18 A. Okay, this happened almost more than a
19 year back, so if you had asked me this question
20 in January of 2009, I might have remembered some
21 names because we used to get e-mails. I don't
22 have a clue what e-mails we got at that time.
23 Q. But sitting here today, you couldn't
24 identify a single person who is a representative
25 of the LBI estate who had access to the data in

1 Krishnan
2 to work and --
3 Q. Okay.
4 A. -- if the entity's here, you can
5 always check.
6 Q. If, for example, Exhibit 837 did
7 include non-LBI entities, would you have any
8 explanation for that?
9 MR. THOMAS: Objection to form.
10 A. I don't know. I would be surprised.
11 Q. Okay. We've got Exhibit 837 on the
12 screen here. Do you see the column I has "DBS
13 Entity Name"?
14 A. Uh-huh.
15 Q. If you could drop down, there should
16 be two options so you can filter it by the two
17 values in there. One is Lehman Brothers, Inc.,
18 correct?
19 A. Uh-huh.
20 Q. And that's the only entity you would
21 expect to see in there, correct?
22 A. Actually, I would have filtered with
23 the DBS entity number, that 0000.
24 Q. Okay. Can you explain to me why the
25 DBS entity name LBIE is in column I?

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<p>1 Krishnan</p> <p>2 A. I'm sorry?</p> <p>3 Q. You see above Lehman Brothers, Inc. in</p> <p>4 the drop down menu from column I, there's also</p> <p>5 Lehman Brothers International Europe?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Can you explain to me why that is?</p> <p>8 A. I don't know. The system goes by the</p> <p>9 number, and this filter was built for the DBS</p> <p>10 entity 0000, if I remember it right.</p> <p>11 Q. So if we wanted to check whether there</p> <p>12 was any extraneous -- and by "extraneous," I</p> <p>13 mean non-LBI data -- you would check column H,</p> <p>14 the "DBS Entity"?</p> <p>15 A. Yes, I think so, but I'm still not</p> <p>16 sure why the DBS entity is the same for those</p> <p>17 two, you know, the number in H.</p> <p>18 Q. If I understand your last answer, you</p> <p>19 don't understand why the DBS entity name for "I"</p> <p>20 in column "I" includes LBIE, is that what you're</p> <p>21 saying?</p> <p>22 A. I'm saying that the system goes by</p> <p>23 column H, and you are having both LBIE and LBI</p> <p>24 under the DBS entity 0000, and that is what we</p> <p>25 filtered for and that's what we have, and I</p>	<p>1 Krishnan</p> <p>2 don't know why the DBS entity 0000 has two</p> <p>3 different DBS entity names.</p> <p>4 Q. And you didn't check for that when you</p> <p>5 were creating your report, did you?</p> <p>6 A. I based everything on this filter, and</p> <p>7 this filter said probably DBS entity 0000 and</p> <p>8 that's what we got.</p> <p>9 Q. Okay. And can you just for the</p> <p>10 record --</p> <p>11 A. Exhibit 859.</p> <p>12 Q. Thank you.</p> <p>13 MR. OXFORD: I don't have any further</p> <p>14 questions for you, Ms. Krishnan.</p> <p>15 MR. DAKIS: Neil picked up most of</p> <p>16 mine, but I just wanted to ask a couple more</p> <p>17 follow-up questions.</p> <p>18 FURTHER EXAMINATION BY</p> <p>19 MR. DAKIS:</p> <p>20 Q. You testified earlier about a special</p> <p>21 environment you created for the September 12 GFS</p> <p>22 data, and you testified that Lehman Brothers</p> <p>23 employees have access to that data, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Do any Barclays employees have access</p>
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<p>1 Krishnan</p> <p>2 to that system?</p> <p>3 MR. THOMAS: Objection to form.</p> <p>4 A. I am not sure. Any -- let me phrase</p> <p>5 it any Barclays employees who were part -- who</p> <p>6 were part of Lehman might have had access, but</p> <p>7 any new -- any new Barclays user after the</p> <p>8 actual bankruptcy wouldn't have had access.</p> <p>9 Q. Just to make sure I'm clear, if there</p> <p>10 was -- let's call them a legacy employee, is</p> <p>11 that okay?</p> <p>12 A. Okay.</p> <p>13 Q. If there was a legacy employee in the</p> <p>14 Product Control Group, would that -- could that</p> <p>15 employee have access to the September 12 GFS</p> <p>16 data?</p> <p>17 MR. THOMAS: Objection to form.</p> <p>18 A. I think they might have had access.</p> <p>19 MR. DAKIS: No further questions.</p> <p>20 MR. THOMAS: A couple follow-up.</p> <p>21 FURTHER EXAMINATION BY</p> <p>22 MR. THOMAS:</p> <p>23 Q. Can you just describe in a little more</p> <p>24 detail what you mean by "special environment"</p> <p>25 just for us lawyers who don't really understand</p>	<p>1 Krishnan</p> <p>2 this computer stuff?</p> <p>3 A. Okay. By "special environment," what</p> <p>4 I mean is we -- the data that was saved up on</p> <p>5 the evening of September 15 which was for</p> <p>6 September 12 end of day, was loaded up into a</p> <p>7 very similar database as the Production GFS with</p> <p>8 all the functionalities that the Production GFS</p> <p>9 has, and users were -- who had access to the</p> <p>10 Production GFS at that time on September 12 also</p> <p>11 had access to the special environment and they</p> <p>12 could use the graphical user interface to modify</p> <p>13 the data or run the reports for that date.</p> <p>14 Q. And it was your understanding that</p> <p>15 this was done at the request of Lehman and/or</p> <p>16 Alvarez & Marsal, as indicated in Deposition</p> <p>17 Exhibit 863?</p> <p>18 A. Yes, that's correct.</p> <p>19 MR. OXFORD: Objection to form.</p> <p>20 MS. CARRERO: Same objection.</p> <p>21 MR. DAKIS: Same objection.</p> <p>22 Q. And was a special environment also set</p> <p>23 up for September 19, 2008?</p> <p>24 A. Yes, a special environment was set up</p> <p>25 for September 19.</p>

Krishnan

Q. Was that done roughly in the same time period of October/November 2008?

A. It was done after -- after the September 12th was -- I think it was done after the -- our users were comfortable with September 12. You know, after they finished, after they were done with the September 12, they said, okay, we don't need September 12 anymore to be adjusted; that's the time we brought the September 19 online.

Q. And when you refer to "users," can you describe generally what entity you're speaking of?

A. The LBI and LBHI.

Q. So you think that September 19 live environment may have been established in roughly the November 2008 time period?

A. I would think more like February or March of 2009.

Q. And do you recall there being any data dumps of September 19 data in the November 2008 time period for any reason?

A. Yes, we might have asked for a September 19 dump to -- end of day dump to be

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loaded into the special environment.

Q. Do you know someone named Dipesh Patel?

A. I don't remember now.

Q. After the close of the Barclays transaction on September 22, 2008, were there any major changes done to the GFS system?

MR. OXFORD: Objection. Form.

MR. DAKIS: Same objection.

A. There was one major change to split the entities so they would not -- the Lehman entities and Barclays entities do not, you know, interact with each other.

Q. And when was that done, approximately?

A. Probably done by the end of September. Maybe in the 24th, 25th timeframe of September. I'm not sure. I don't remember the dates.

Q. Did that result in any change in functionality for the users in terms of how you log into the system and so forth?

A. It did not change anything to the functionality.

Q. So, on September 23, a Lehman user with access to GFS could log in and use GFS the

Krishnan

way they had previously?

A. Yes.

Q. And in that GFS system, that would have all -- they would be able to run whatever reports they wanted to run, including the type of reports that we've seen today as deposition exhibits?

A. That's correct.

MR. THOMAS: Thanks. I have nothing further.

MR. DAKIS: I have just one more follow-up question.

FURTHER EXAMINATION BY

MR. DAKIS:

Q. Mr. Thomas just asked you when you talk about the users, you know, what entity generally are you speaking of, and you testified the LBI or the LBHI, correct?

A. That's correct.

Q. Are you including in the LBI and LBHI employees who were with Lehman but went to Barclays after the sale?

MR. THOMAS: Objection to form.

A. I don't know what is included, but

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what I mean by LBI and LBHI is the Alvarez & Marsal would be LBHI and I think LBI was some other consulting company. I don't remember their name now.

Q. But you testified that Barclays employees, the legacy Barclays employees would also have access to the September 12 system, is that correct?

MR. THOMAS: Objection to form.

A. The legacy Barclays employees would have had access, yes, that's correct.

Q. So they would also be users, correct?

MR. THOMAS: Objection to form.

A. Well, it was not set up for them.

Q. But they have access to it and can use it, correct?

A. Yeah, they could have used it.

MR. DAKIS: Nothing further.

FURTHER EXAMINATION BY

MR. THOMAS:

Q. Could you turn back to Deposition Exhibit 863, please. Could you read the subject line of the e-mail chain?

A. "9/12 Global Consolidated Close - on

1 Krishnan
2 Behalf of Alvarez & Marsal."
3 Q. And is that consistent with your
4 recollection that this project was driven in
5 part by Alvarez & Marsal?
6 A. Yes.
7 MS. CARRERO: Objection.
8 MR. DAKIS: Same objection.
9 MR. THOMAS: Thanks.
10 THE WITNESS: One more thing, I
11 don't -- for your question, if you look at
12 this e-mail, this probably does not include
13 any user who -- legacy employees who went to
14 Barclays. So they wouldn't even know how to
15 access the September 12 environment.
16 BY MR. THOMAS:
17 Q. But in any event, whoever this was
18 sent to and whoever might have theoretically had
19 access, it's your understanding that this was a
20 project driven by Lehman and Alvarez & Marsal?
21 A. Yes.
22 MR. OXFORD: Objection to form.
23 MS. CARRERO: Objection to form.
24 MR. DAKIS: Objection.
25 Q. And there's no question that Lehman

1 Krishnan
2 and Alvarez & Marsal were involved in this
3 project and process of making any adjustments?
4 MS. CARRERO: Objection to form.
5 MR. DAKIS: Objection to form.
6 MR. OXFORD: Objection to form.
7 A. This was initiated by Alvarez & Marsal
8 and LBI, so this environment was set up for
9 them.
10 Q. And they remain involved in the
11 project?
12 A. Yes, that's correct.
13 MR. DAKIS: Objection to form.
14 Q. And do you have an understanding of
15 why they wanted to try to get a consolidated
16 close for 9/12?
17 MR. OXFORD: Objection.
18 MR. DAKIS: Objection. Form.
19 MR. OXFORD: Foundation.
20 MR. DAKIS: Foundation.
21 MS. CARRERO: Same objection.
22 A. I can answer, right?
23 Q. Yes.
24 A. My understanding is that they, Alvarez
25 & Marsal and LBI, thought the data might have

1 Krishnan
2 been incorrect because of the input and users
3 not looking at the data on September 15, so they
4 wanted to have the capability to make it right.
5 MR. THOMAS: Thanks. I have nothing
6 further.
7 MS. CARRERO: One follow-up.
8 Hopefully I won't prompt any additional
9 questions.
10 FURTHER EXAMINATION BY
11 MS. CARRERO:
12 Q. Is it possible to query the GFS data
13 for September 12 absent any sort of adjustment
14 that might have taken place within the special
15 environment?
16 A. I'm sorry? The September 12? What
17 are you saying?
18 Q. Is a query of GFS data for September
19 12 --
20 A. Uh-huh.
21 Q. -- possible using data before any
22 purported subsequent adjustments while part of
23 the special environment?
24 A. It may be possible to do it if we are
25 able to restore the data from the night of

1 Krishnan
2 September 15 and load it into another
3 environment, you know, like that was the data
4 before the adjustments for these took place for
5 the 863.
6 Q. So your understanding would be that
7 the September 12 data was potentially archived
8 as well as loaded onto the special environment
9 that you testified about?
10 MR. THOMAS: Objection to form.
11 A. The special environment started with
12 the end of day of September 12 data, which was
13 September 15 evening. So on September -- on the
14 actual September 15, around 7:30 P.M. the data
15 was saved up somewhere.
16 So your question was can we get the
17 September 12 data without these -- the special
18 environment, right? So if we go back to the
19 data save that we did on September 15 evening,
20 we'll be able to do that.
21 Q. And have you undertaken any sort of
22 analysis of the September 12 data versus what
23 has been produced to us and based on your
24 testimony comes from the special environment?
25 A. You mean if --

Krishnan

Q. Would you like me to rephrase?

A. Yes.

Q. Have you or, as far as you know, has there been any analysis of the September 12 data that would have been saved on September 15 --

A. Uh-huh.

Q. -- versus the September 12 data that was produced to the movants in this matter from, based on your testimony, the special environment location?

A. I have not done any analysis to that effect. I'm not aware of anything like that.

MS. CARRERO: Nothing further.

MR. THOMAS: Just one clarification.

FURTHER EXAMINATION BY

MR. THOMAS:

Q. When you said the special environment started with the end of day of September 12 data, which was September 15 evening --

A. Uh-huh.

Q. -- you don't mean the special environment was set up right after then, do you?

A. No.

Q. The special environment was set up at

Krishnan

the request of Alvarez & Marsal sometime in October 2008?

MS. CARRERO: Objection to form.

MR. DAKIS: Objection to form.

A. Yes, that's correct.

Q. Okay. So the adjustments we have been discussing would not have been made between September 15th and the time that the special environment was set up sometime in October of 2008; is that correct?

A. That's correct.

(Continued on the next page to include the jurat.)

Krishnan

Q. So the adjustments in the special environment we're talking about would have been in the October 2008 period, correct?

A. Yes, between October 2008 and January 2009.

MR. THOMAS: Thank you. Nothing further.

MS. CARRERO: Nothing further.

MR. DAKIS: Nothing further.

MR. OXFORD: Nothing further.

(Time Noted: 5:04 P.M.)

oOo

UMA KRISHNAN

Subscribed and sworn to
before me this day
of 2010.

Krishnan

CERTIFICATE

STATE OF NEW YORK)

: ss

COUNTY OF NEW YORK)

I, Kathy S. Klepfer, a Registered Merit Reporter and Notary Public within and for the State of New York, do hereby certify:

That UMA KRISHNAN, the witness whose deposition is herein before set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that neither the deponent nor a party requested a review of the transcript pursuant to Federal Rule of Civil Procedure 30(e) before the deposition was completed.

In witness whereof, I have hereunto set my hand this 29th day of June, 2010.

KATHY S. KLEPFER, RPR, RMR, CRR, CLR

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----x
In Re: Chapter 11
5 LEHMAN BROTHERS Case No. 08-13555 (JMP)
HOLDINGS, INC., et al., (Jointly Administered)
6 -----)

7
8 * * * HIGHLY CONFIDENTIAL * * *

9 DEPOSITION OF PHILIP E. KRUSE

10 New York, New York

11 Thursday, December 17, 2009
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20 Reported by:

FRANCIS X. FREDERICK, CSR, RPR, RMR

21 JOB NO. 26533
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Page 2	Page 3
<p>1 2 3 4 5 December 17, 2009 6 9:32 a.m. 7 8 9 HIGHLY CONFIDENTIAL videotaped 10 deposition of PHILIP E. KRUSE, held at 11 the offices of Boies Schiller & Flexner, 12 LLP, 575 Lexington Avenue, New York, New 13 York, pursuant to Notice, before Francis 14 X. Frederick, a Certified Shorthand 15 Reporter, Registered Merit Reporter and 16 Notary Public of the States of New York 17 and New Jersey. 18 19 20 21 22 23 24 25</p>	<p>1 2 A P P E A R A N C E S: 3 JONES DAY, LLP 4 Attorneys for Lehman Brothers, Inc. 5 222 East 41st Street 6 New York, New York 10017-6702 7 BY: JAYANT TAMBE, ESQ. 8 KELLY CARRERO, ESQ. 9 10 BOIES SCHILLER & FLEXNER, LLP 11 Attorneys for Barclays Capital 12 401 East Las Olas Boulevard, Suite 1200 13 Fort Lauderdale, Florida 33301 14 BY: W. TODD THOMAS, ESQ. 15 - and - 16 BOIES SCHILLER & FLEXNER, LLP 17 575 Lexington Avenue - 7th Floor 18 New York, New York 10022 19 BY: JONATHAN P. KRISBERGH, ESQ. 20 21 22 23 24 25</p>
Page 4	Page 5
<p>1 2 A P P E A R A N C E S: (Cont'd.) 3 QUINN, EMANUEL, URQUHART, OLIVER & 4 HEDGES, LLP 5 Attorneys for the Creditors Committee 6 51 Madison Avenue 7 New York, New York 10010 8 BY: ERIC M. KAY, ESQ. 9 10 HUGHES, HUBBARD & REED, LLP 11 Attorneys for the SIPA Trustee 12 One Battery Park Plaza 13 New York, New York 10004-1482 14 BY: SETH ROTHMAN, ESQ. 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL 2 THE VIDEOGRAPHER: This is the 3 start of tape number one of the 4 videotaped deposition of Philip Kruse in 5 the matter In Re. Lehman. Today's date 6 is December 17th, 2009 at approximately 7 9:32 a.m. Will the court reporter 8 please swear in the witness. 9 * * * 10 P H I L I P K R U S E, called as a 11 witness, having been duly sworn by a 12 Notary Public, was examined and 13 testified as follows: 14 EXAMINATION BY 15 MR. THOMAS: 16 Q. Good morning, Mr. Kruse. 17 A. Morning. 18 Q. Would you please state your name. 19 A. Philip Kruse. 20 Q. And will you please state who you 21 work for? 22 A. I'm with Alvarez & Marsal. 23 Q. And have you been deposed before? 24 A. Yes, I have. 25 Q. Okay. Approximately how many</p>

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Page 7

1 P. KRUSE - HIGHLY CONFIDENTIAL
2 times?

3 A. Twice.

4 Q. So you understand how this process
5 works. I'll be asking questions. If you
6 don't understand any of my questions or want
7 me to clarify them, please do so. Please ask
8 me to do so and I will.

9 A. Yes. Of course.

10 Q. Okay. Do you understand you've
11 been designated here today as a corporate
12 representative for both LBHI and Alvarez?

13 A. Yes.

14 Q. And can you please describe your
15 career history just at a very high level.

16 A. Graduated in December of 1982 from
17 the University of Kansas. Accounting and
18 business administration degree. Bachelor of
19 science. Began work in January of '83 with a
20 public accounting firm in Wichita, Kansas.
21 Regier, Carr & Monroe. I was there for three
22 and a quarter years. And then began work in
23 Shelby Ruckdashel & Jones in Dallas, Texas.
24 Was with that firm -- that's a public
25 accounting firm. I was with that firm for

1 P. KRUSE - HIGHLY CONFIDENTIAL

2 about a year. And then joined Kenneth
3 Leventhal & Company also in Dallas, Texas. I
4 was with Kenneth Leventhal & Company from the
5 fall -- excuse me -- from the spring of '87
6 through November of '92. In November of '92 I
7 moved to New York and joined the former
8 Deloitte & Touche. I was with Deloitte Touche
9 through calendar year 2004 and joined Alvarez
10 & Marsal in January of 2005.

11 Q. And what is your current position
12 with Alvarez & Marsal?

13 A. I'm a Managing Director in Our
14 Dispute Analysis and Forensics Services Group.

15 Q. And what are your duties and
16 responsibilities in that position?

17 A. Primarily client service. I
18 oversee forensic accounting engagements of
19 various types. Litigation consulting
20 engagements.

21 Q. And when did you first become
22 involved with LBHI or the LBI sale of assets
23 to Barclays?

24 A. My first involvement was the day
25 the deal closed. I think I was on site the

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Page 9

1 P. KRUSE - HIGHLY CONFIDENTIAL
2 afternoon of September 22nd.

3 Q. Do you know when Alvarez's first
4 involvement with that sale transaction was?

5 A. Well, I know that Brian Marcel was
6 called the evening of September 14th, Sunday
7 evening, by a board member of Lehman. And at
8 that time was asked to serve as a chief
9 restructuring officer for the entity as it was
10 entering bankruptcy. So I think we had people
11 on the ground that following day, on the 15th.

12 Q. Let me go ahead and show you two
13 documents we'll mark as 457A and 458A.

14 (Deposition Exhibit 457A, Barclays
15 Capital Inc.'s Rule 30(b)(6) Deposition
16 Notice to Lehman Brothers Holdings Inc.,
17 marked for identification as of this
18 date.)

19 (Deposition Exhibit 458A, Barclays
20 Capital Inc.'s Rule 30(b)(6) Deposition
21 Notice to Alvarez & Marsal, marked for
22 identification as of this date.)

23 BY MR. THOMAS:

24 Q. Have you seen these documents
25 before?

1 P. KRUSE - HIGHLY CONFIDENTIAL

2 A. Yes, I have.

3 Q. Okay. And you understand them to
4 be -- to contain the topics which you are
5 going to serve as a representative for here
6 today?

7 A. Yes.

8 MR. TAMBE: I would only add that,
9 you know, at least 457A -- well, both
10 457A and 458A have been the subject of
11 certain correspondence between my
12 partner, Bill Hein, and yourself. And
13 there's a letter dated November 2nd in
14 which we have noted certain objections
15 with respect to 457A as well as 458A.
16 And certainly we're producing this
17 witness subject to those objections.

18 MR. THOMAS: Sure. And you
19 received my letter in response.

20 MR. TAMBE: Yeah, yeah.

21 MR. THOMAS: So you understand --

22 MR. TAMBE: We understand your
23 position, yeah.

24 MR. THOMAS: -- how we're moving
25 forward.

Page 10	Page 11
<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. THOMAS:</p> <p>3 Q. Since you're kind of wearing two</p> <p>4 hats here today and at the suggestion of your</p> <p>5 counsel we've agreed to try to conflate the</p> <p>6 deposition. We'll have to -- you and I will</p> <p>7 both have to be careful to distinguish between</p> <p>8 LBHI and Alvarez when appropriate. Sometimes</p> <p>9 I'll ask questions framed as LBHI and Alvarez.</p> <p>10 Obviously, if you need to draw any kind of</p> <p>11 distinction between the two in your answer,</p> <p>12 you know, please do so.</p> <p>13 A. Yes, of course.</p> <p>14 Q. Okay. In terms of your role as an</p> <p>15 LBHI representative for these topics can you</p> <p>16 please describe what you did to prepare</p> <p>17 yourself for answering questions today?</p> <p>18 A. My preparation generally entailed</p> <p>19 rereading and re-reviewing the Rule 60(b)</p> <p>20 motion that LBHI filed as well as the UCC and</p> <p>21 the SIPA Trustee and the exhibits to those</p> <p>22 filings as well. And I also met with counsel</p> <p>23 for about a -- for two days earlier this week.</p> <p>24 Q. Did you discuss the deposition</p> <p>25 with anyone else?</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. I had discussions with other</p> <p>3 people at Alvarez & Marsal in the course of</p> <p>4 refreshing my memory about some of this</p> <p>5 material.</p> <p>6 Q. Let's stay on LBHI for just a</p> <p>7 minute. Did you speak with anyone at LBHI to</p> <p>8 gain information in order to answer questions</p> <p>9 today?</p> <p>10 MR. TAMBE: Objection to the form</p> <p>11 of the question.</p> <p>12 A. Well, you know, the people at LBHI</p> <p>13 that generally have knowledge on these topics,</p> <p>14 substantially all of them had moved over to</p> <p>15 Barclays, and so I wouldn't have had access by</p> <p>16 and large to virtually all the people who have</p> <p>17 knowledge on these topics as it relates to</p> <p>18 LBHI.</p> <p>19 Q. Who -- that is who still at LBHI</p> <p>20 has knowledge on these topics?</p> <p>21 A. There are various people who</p> <p>22 either are with or rejoined the estate -- or</p> <p>23 joined the estate after the sale that we've</p> <p>24 had discussions with in the course of our</p> <p>25 work.</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 THE WITNESS: Presumably the</p> <p>3 identity of those people is not subject</p> <p>4 to any privilege issues.</p> <p>5 MR. TAMBE: No. I think if</p> <p>6 they're the people who fall under the</p> <p>7 category as you understand the question</p> <p>8 and you remember the names then you</p> <p>9 should identify them.</p> <p>10 A. The people that I recall as I sit</p> <p>11 here, and there may be others, Anthony</p> <p>12 Collerton, Chris O'Meara. There are others</p> <p>13 whose names escape me but, you know, I can --</p> <p>14 there are probably at least three or four</p> <p>15 others that I know we spoke to at various</p> <p>16 times in the course of our work in order to</p> <p>17 get the benefit of whatever knowledge they</p> <p>18 had.</p> <p>19 Q. Let me just try to prompt you with</p> <p>20 a couple names and see if you did speak with</p> <p>21 them or you otherwise know that they have</p> <p>22 knowledge concerning these topics or the sale</p> <p>23 transaction.</p> <p>24 Christopher Mosher?</p> <p>25 A. I don't believe I've spoken to</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 him.</p> <p>3 Q. Do you know if he has knowledge</p> <p>4 concerning these topics?</p> <p>5 A. I do not know.</p> <p>6 Q. Catherine Muller?</p> <p>7 A. I know Catherine Muller. I'd</p> <p>8 spoken to her before. I don't recall that it</p> <p>9 was specifically about the Barclays deal,</p> <p>10 itself.</p> <p>11 Q. Do you know her involvement with</p> <p>12 the sale transaction?</p> <p>13 A. I don't. She doesn't appear to be</p> <p>14 a prominent player by virtue of the material</p> <p>15 that I reviewed.</p> <p>16 Q. Bill Olshan?</p> <p>17 A. Yes. I know Bill Olshan.</p> <p>18 Q. Was he involved in the Barclays</p> <p>19 transaction?</p> <p>20 A. No, he was not. To my knowledge.</p> <p>21 Q. Lisa Roitman?</p> <p>22 A. I know the name but I don't know</p> <p>23 Lisa and I don't know that she had any</p> <p>24 involvement either.</p> <p>25 Q. Eric Salzman?</p>

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. I don't think I ever spoke to</p> <p>3 Chris independently on this subject without</p> <p>4 Jones Day present so I'll follow instructions</p> <p>5 of counsel and leave it at that.</p> <p>6 Q. Okay. Any of the other people</p> <p>7 that we've gone through on the list did you</p> <p>8 speak with them in preparation for you</p> <p>9 testimony today?</p> <p>10 A. Well, I speak routinely to the</p> <p>11 people in the in-house legal team, Bill</p> <p>12 Olshan, Tom Hommel, Martha Solinger. I</p> <p>13 wouldn't say I spoke to them specifically on</p> <p>14 the subject of this deposition. But the other</p> <p>15 people -- I did not speak to those people</p> <p>16 directly in connection with my preparation.</p> <p>17 Q. Okay. For example, Catherine</p> <p>18 Muller, did you reach out to her for purposes</p> <p>19 of getting ready for the deposition?</p> <p>20 A. No, I did not.</p> <p>21 Q. Okay. And what did you do for</p> <p>22 your preparation with respect to your role as</p> <p>23 the Alvarez 30(b)(6) witness today?</p> <p>24 A. Again, I reviewed the material</p> <p>25 that was filed in connection with our Rule</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 60(b) motion, the other Rule 60(b) motions by</p> <p>3 the other interested parties, the exhibits</p> <p>4 thereto. I met with counsel. I had</p> <p>5 conversations -- a brief conversation with Jim</p> <p>6 Fogarty, really to just introduce Jim to the</p> <p>7 Jones Day firm, making him aware that Jones</p> <p>8 Day would be reaching out to him to schedule</p> <p>9 his deposition. We did try to speak to Jim in</p> <p>10 the last couple of days but he is currently --</p> <p>11 he left A&M, as you may know, and is currently</p> <p>12 the CEO of Charming Shops. And I understand</p> <p>13 he was embroiled in a preparation for and</p> <p>14 participation in a board meeting for his</p> <p>15 company. And we haven't been able to speak to</p> <p>16 him in the last couple of days.</p> <p>17 I spoken to Brian Marsal recently</p> <p>18 in connection with my preparation. I've</p> <p>19 spoken to John Suckow in connection with my</p> <p>20 preparation.</p> <p>21 Q. Anyone else?</p> <p>22 A. Not that I recall, as I sit here.</p> <p>23 Q. What information did you learn</p> <p>24 from Mr. Marsal?</p> <p>25 A. I just generally spoke to him</p>
Page 20	Page 21
<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 about his perspectives on what we as a -- we</p> <p>3 as a firm, A&M were focused on. And how they</p> <p>4 related to some of the material I saw.</p> <p>5 And I'm sorry. I should back up.</p> <p>6 In connection with my preparation I also</p> <p>7 reviewed various e-mail communications that</p> <p>8 were produced as I understand it in this</p> <p>9 matter that involve communications A&M was</p> <p>10 involved in. And I would have spoken to Brian</p> <p>11 to get his perspective on some of the material</p> <p>12 that I'd seen up to that point in my</p> <p>13 preparation.</p> <p>14 Q. Okay. And what information did</p> <p>15 you learn from Mr. Suckow?</p> <p>16 A. Again, it would have been a</p> <p>17 similar nature, to try to get a perspective on</p> <p>18 some of the material I'd seen in connection</p> <p>19 with my preparation.</p> <p>20 Q. So from LBHI you reviewed the Rule</p> <p>21 60 motions and you met with counsel. That was</p> <p>22 pretty much the extent of your getting</p> <p>23 prepared to be answer the questions for LBHI;</p> <p>24 is that correct?</p> <p>25 MR. TAMBE: Objection to the form</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 A. I would agree with that but would</p> <p>4 also just add a point of emphasis that because</p> <p>5 of the work that we had been doing up to this</p> <p>6 point I was generally aware that the people</p> <p>7 that are currently at the estate did not have</p> <p>8 substantial knowledge of the transaction. So</p> <p>9 I didn't feel an immediate need or utility</p> <p>10 that would be served by seeking out some of</p> <p>11 these people you named.</p> <p>12 Q. Okay. In any event, you didn't</p> <p>13 seek them out or talk to them.</p> <p>14 A. Not in connection with the</p> <p>15 preparation itself, no.</p> <p>16 Q. Okay. Let me go ahead and hand</p> <p>17 you an exhibit that's already been marked</p> <p>18 that's the Asset Purchase Agreement.</p> <p>19 I might try to start with the most</p> <p>20 boring stuff first while we're all still</p> <p>21 awake. And basically what I'd like to do is</p> <p>22 basically walk through -- and this really</p> <p>23 relates to topic number 1 in the deposition</p> <p>24 notices and just walk through and ask you</p> <p>25 about valuations that were made or not made</p>

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 with respect to the assets and then the</p> <p>3 liabilities.</p> <p>4 A. Um-hum.</p> <p>5 Q. So at page 6 of the APA -- and</p> <p>6 this is a document you're familiar with, I</p> <p>7 presume.</p> <p>8 A. Yes. I am.</p> <p>9 Q. Okay. Under Purchased Assets --</p> <p>10 again, I'd like to just walk through and ask</p> <p>11 pursuant to topic 1 what your understanding --</p> <p>12 what LBHI's and/or Alvarez's understanding was</p> <p>13 with respect to the valuations of these</p> <p>14 various items. And if the answer is they</p> <p>15 don't know or no valuation performed, so be</p> <p>16 it. But if there were valuations performed or</p> <p>17 there was some knowledge I would like to have</p> <p>18 your information on that.</p> <p>19 So the first one, the retained</p> <p>20 cash, do you know how much -- what value the</p> <p>21 retained cash had as of September 17th?</p> <p>22 A. No. A&M had no understanding of</p> <p>23 this or any of these categories of assets and</p> <p>24 what their value was at any point prior to the</p> <p>25 closing.</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 Q. Okay. How about LBHI?</p> <p>3 A. I believe LBHI's understanding</p> <p>4 would have been best represented in the</p> <p>5 discovery that's been conducted thus far under</p> <p>6 our Rule 2004 motion. And that's obviously</p> <p>7 part of the record in this matter.</p> <p>8 Substantially all the people that were</p> <p>9 involved, to my knowledge, have moved over to</p> <p>10 Barclays.</p> <p>11 Q. Well, I mean, have you tried to</p> <p>12 look at any records at LBHI, at the estate, to</p> <p>13 determine what the amount of retained cash was</p> <p>14 as of September 17th?</p> <p>15 A. Anything I would have been -- have</p> <p>16 done in connection with the evaluation of</p> <p>17 these items would have been done in connection</p> <p>18 with, as I understand it, privileged work</p> <p>19 under the direction of counsel.</p> <p>20 Q. Okay. Well, I'm just -- I don't</p> <p>21 want to get into, you know, anything</p> <p>22 privileged but I'm just asking simple fact</p> <p>23 questions. And I think a fact is not</p> <p>24 privileged. So do you know how much retained</p> <p>25 cash was -- there was on September 17th?</p>
Page 24	Page 25
<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. As I sit here, no.</p> <p>3 Q. Do you know -- are there records</p> <p>4 at LBHI that would show that?</p> <p>5 A. I believe there would be, yes. To</p> <p>6 the best of my recollection, I don't believe</p> <p>7 there was cash, you know, retained. But I</p> <p>8 don't know the particular details of that as I</p> <p>9 sit here.</p> <p>10 Q. Do you know which documents at</p> <p>11 LBHI would show that information?</p> <p>12 A. The accounting records generally.</p> <p>13 Q. Okay. And you did -- you</p> <p>14 mentioned Alvarez did not know the amount of</p> <p>15 retained cash prior to closing; is that</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. Did Alvarez ever seek to find out</p> <p>19 what the retained cash was prior to closing?</p> <p>20 A. No.</p> <p>21 Q. Okay. Did they --</p> <p>22 MR. TAMBE: Could I just get a</p> <p>23 clarification on that.</p> <p>24 Prior to the closing did they make</p> <p>25 efforts to find other retained cash or</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 after closing did they look back and</p> <p>3 say -- I just want clarification on</p> <p>4 that.</p> <p>5 MR. THOMAS: That's a good point.</p> <p>6 It was the former but I'm going to ask</p> <p>7 it as to the latter also.</p> <p>8 MR. TAMBE: Okay.</p> <p>9 Q. At any point, did Alvarez try to</p> <p>10 identify how much retained cash there was as</p> <p>11 of September 17th or any point up through</p> <p>12 closing?</p> <p>13 A. We had literally no focus on the</p> <p>14 deal, itself, as of -- prior to closing so I</p> <p>15 would say no.</p> <p>16 Q. Even at a later point in time you</p> <p>17 didn't go back and look at the value of the</p> <p>18 retained cash prior to closing?</p> <p>19 A. Well, there was an effort post</p> <p>20 closing to gather the fact base as to what was</p> <p>21 transferred over in the deal. And I know that</p> <p>22 our -- the A&M team focused on the treasury</p> <p>23 function. One of the very first things we do</p> <p>24 in a matter like this is to try to understand</p> <p>25 as comprehensively as possible what the cash</p>

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position is of the entity. So I think there would have been an undertaking to understand what cash was retained by LBHI after the closing and perhaps some of that would have touched upon what cash, if any, was transferred over in connection with the deal.

Q. Okay. Well, do you know the amount of retained cash there was as of the closing?

A. As I sit here, no.

Q. Do you know the amount of the retained cash that was transferred over, if any?

MR. TAMBE: Object to the form of the question.

A. Yeah, it seems like a contradiction, retained cash and transferred over.

Q. You're right. I agree. Bad question. I'll withdraw it.

And, I mean, obviously LBHI at the time prior to closing would have known how much the retained cash was, correct?

MR. TAMBE: Object to the form of

P. KRUSE - HIGHLY CONFIDENTIAL

the question. You can answer.

A. Yeah, I would presume LBHI personnel understood that, yes.

Q. Did -- what is LBHI's understanding of the value of the deposits indicated in subsection B of the Purchased Assets as of September 17th?

A. LBHI's understanding?

Q. Yes.

A. Again, I think LBHI's understanding would primarily reside with people who are no longer with the estate and have moved over to Barclays.

Q. Would it also be reflected in documents at the estate?

A. I believe it is reflected in documents obtained in discovery in this matter, yes.

Q. Okay. Do you know what those documents indicate in terms of the values of the deposits?

A. Not specifically as I sit here. I have a vague recollection of various documents I've seen on this subject. But --

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Q. What are the documents you think show the valuation of the deposits?

A. As I say, I don't have a specific recollection of what the amount is now. I would have to go back and gather the documents that I am vaguely thinking of and undertake to do that. I haven't done it specifically.

Q. Right. I'm just wondering can you describe the documents that you're thinking of that you're referring to when you...

A. Well, there's material that was produced in the course of the 2004 discovery, for example, that speaks to -- and some of this might depend on whether this qualifies under deposits as defined here. I'm not prepared to say that it does because I haven't really discussed that particular correlation. But I know there's material speaking to 15(c)(3) deposits, for example, that were transferred over or intended to transfer over.

Q. Is it fair to say for A and B, the retained cash and the deposits, the valuations of those two items would be contained in LBHI documents but that you haven't gone to those

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documents to go try to determine those values?

MR. TAMBE: Objection to the form of the question.

A. I haven't independently separately tried to do that. I know that in the material produced, for example in the 2004 discovery, that there is material that would speak to this issue.

Q. And I think you said there would be obviously documents at LBHI that would have this information, correct?

A. Yeah. And let me just clarify. When we talk about documents at LBHI, we should understand that all the systems were transferred over to Barclays in connection with the sale. So anything that LBHI had was then moved over to Barclays, as I understand it, in connection with the transaction. We've had a process under way for quite some time operating under a Transition Services Agreement with Barclays to retain the data and information that was moved over in connection with that deal. So I just wanted to offer that point of clarification.

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 Q. Right. But the estate still has</p> <p>3 access to those documents and that</p> <p>4 information, correct?</p> <p>5 A. Generally, yes. There were quite</p> <p>6 a few difficulties early on in the first</p> <p>7 quarter particularly in getting the</p> <p>8 information we needed just to run the estate</p> <p>9 in the manner we deemed necessary.</p> <p>10 Q. Moving on to subpart C, the</p> <p>11 transferred real estate -- excuse me -- the</p> <p>12 transferred real property leases. At any</p> <p>13 point did -- strike that.</p> <p>14 What was LBHI's or Alvarez's</p> <p>15 understanding of the value of those leases as</p> <p>16 of September 17th?</p> <p>17 A. As of September 17th Alvarez would</p> <p>18 have had no knowledge of it. LBHI's</p> <p>19 understanding would have been as probably more</p> <p>20 appropriately determined through contact with</p> <p>21 people who moved over to Barclays.</p> <p>22 Q. Would the value of the leases also</p> <p>23 be reflected in LBHI documents?</p> <p>24 A. Yes, they would.</p> <p>25 Q. And you haven't tried to identify</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 the value from those documents?</p> <p>3 MR. TAMBE: Object to the form of</p> <p>4 the question.</p> <p>5 A. Well, there's been an effort to</p> <p>6 identify the inventory of the items that</p> <p>7 transferred over. But the work that we've</p> <p>8 done in that regard has generally been done</p> <p>9 under the direction of counsel.</p> <p>10 Q. Okay. But for purposes of this</p> <p>11 deposition you haven't gone and found out what</p> <p>12 the LBHI documents say about the value of the</p> <p>13 leases in subpart C?</p> <p>14 A. Well, I've seen documents that</p> <p>15 speak to issues like this. I'm not going to</p> <p>16 be able to quote to you sitting here without</p> <p>17 anything in front of me what that reflects.</p> <p>18 Q. Well, do you have any idea what</p> <p>19 the value of those leases were as of September</p> <p>20 17th?</p> <p>21 A. Not specifically. I think it was</p> <p>22 relatively nominal compared to the overall</p> <p>23 value of the assets transferred in connection</p> <p>24 with the deal.</p> <p>25 Q. Can you give me some ball park</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 figure?</p> <p>3 A. No.</p> <p>4 Q. And just to be clear when I'm</p> <p>5 asking about value of these things as of</p> <p>6 September 17th, it's whether the valuation was</p> <p>7 known at the time or later on, just to be</p> <p>8 clear. So if Alvarez did a later study to see</p> <p>9 how much the leases were worth, you know, two</p> <p>10 months down the road, that would be, you know,</p> <p>11 contained in my question also.</p> <p>12 So the question is at any time --</p> <p>13 or regardless of when they knew the value, did</p> <p>14 Alvarez make any assessment of the value of</p> <p>15 these leases in subpart C?</p> <p>16 A. As of September 17th, no.</p> <p>17 Anything that's been done since then as I said</p> <p>18 was generally done under the direction of</p> <p>19 counsel.</p> <p>20 Q. Okay. Well, did they make an</p> <p>21 effort to value these leases at any point</p> <p>22 whether under the direction of counsel or not?</p> <p>23 MR. TAMBE: I think that gets into</p> <p>24 the subject matter of what may have been</p> <p>25 done at the direction of counsel. I</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 think that therefore would invade work</p> <p>3 product and attorney-client</p> <p>4 communications.</p> <p>5 MR. THOMAS: Just the fact of it?</p> <p>6 MR. TAMBE: The subject matter of</p> <p>7 what it is that they -- what steps they</p> <p>8 would have taken.</p> <p>9 MR. THOMAS: Okay.</p> <p>10 BY MR. THOMAS:</p> <p>11 Q. Well, let me ask a different</p> <p>12 question then.</p> <p>13 Do you have any idea how much</p> <p>14 these leases were worth?</p> <p>15 A. Not specifically, no.</p> <p>16 Q. Generally?</p> <p>17 A. They were relatively nominal in</p> <p>18 relation to the value of all the assets that</p> <p>19 were transferred.</p> <p>20 Q. Okay. Could you tell me what</p> <p>21 nominal means to you?</p> <p>22 A. I believe it was -- I don't know.</p> <p>23 Actually, as I think about it, I believe</p> <p>24 Barclays may have ascribed a value to the</p> <p>25 lease terms, the economic lease terms, versus</p>

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 market in connection with their purchase</p> <p>3 accounting that they ascribed, but I don't</p> <p>4 recall specifically what the number was. I</p> <p>5 just know that it wasn't a particularly</p> <p>6 material item in relation to the overall deal.</p> <p>7 Q. Okay. Subsection D is Government</p> <p>8 Securities, Commercial Paper, Corporate Debt,</p> <p>9 Corporate Equity, Exchange Traded Derivatives</p> <p>10 and Collateralized Short-Term Agreements.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. This describes -- references it</p> <p>14 having approximately \$70 billion book value.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And it's then referred to as the</p> <p>18 long positions. Has Alvarez ever done -- made</p> <p>19 any efforts to value these items in subpart D?</p> <p>20 MR. TAMBE: Objection to the form</p> <p>21 of the question.</p> <p>22 A. Anything we've done in connection</p> <p>23 with valuing these securities has been done</p> <p>24 under the direction of counsel. We certainly</p> <p>25 didn't have any understanding of this at the</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 time the deal was done or closed.</p> <p>3 Q. Do you know the -- does either</p> <p>4 Alvarez or LBHI have a list of the actual</p> <p>5 CUSIPS for these items in subpart D?</p> <p>6 MR. TAMBE: Objection to the form</p> <p>7 of the question.</p> <p>8 A. Yes.</p> <p>9 Q. They do.</p> <p>10 A. Yes.</p> <p>11 Q. Do you know if that list has been</p> <p>12 produced?</p> <p>13 A. Any list we got I believe would</p> <p>14 have been part of the production in the Rule</p> <p>15 2004 discovery if I'm not mistaken.</p> <p>16 Q. So without getting into the</p> <p>17 substance of any efforts to value this at the</p> <p>18 direction of counsel, when was such efforts</p> <p>19 made? The date.</p> <p>20 A. The work in that respect would</p> <p>21 have been since Jones Day was retained in</p> <p>22 March of 2009.</p> <p>23 Q. And as you sit here today as both</p> <p>24 an Alvarez and an LBHI representative do you</p> <p>25 have any understanding as -- or what do you</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 believe the items in subsection D were worth</p> <p>3 as of September 17th?</p> <p>4 MR. TAMBE: Objection to the form</p> <p>5 of the question and to the extent you're</p> <p>6 asking him to disclose what may have</p> <p>7 been obtained through work product done</p> <p>8 at the direction of counsel I'd instruct</p> <p>9 him not to answer.</p> <p>10 A. Anything I could answer with</p> <p>11 respect to that would be done under direction</p> <p>12 of counsel. Again, at the time this deal was</p> <p>13 done Alvarez & Marsal would have had no</p> <p>14 understanding of the values of these</p> <p>15 securities beyond what was disclosed or talked</p> <p>16 about in court hearings.</p> <p>17 I know that shortly after the deal</p> <p>18 closed there was an attempt to just gather the</p> <p>19 fact set from people who were then Barclays</p> <p>20 personnel and get a CUSIP-by-CUSIP listing of</p> <p>21 what was transferred over. I believe that</p> <p>22 listing that we obtained at that time had</p> <p>23 values ascribed to but we didn't undertake at</p> <p>24 that point to independently value or verify</p> <p>25 what was being portrayed in that data.</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 Q. Well, what was transferred over</p> <p>3 ultimately was not what's in subsection D,</p> <p>4 correct?</p> <p>5 A. Yes. You're correct. Thank you</p> <p>6 for that correction.</p> <p>7 Q. Right. So as I understand it, any</p> <p>8 knowledge that you have as a representative of</p> <p>9 LBHI or Alvarez as to the actual value of the</p> <p>10 products, the securities in subpart D as of</p> <p>11 September 17th, is being claimed as privileged</p> <p>12 work product?</p> <p>13 A. Yes.</p> <p>14 MR. TAMBE: Objection to the form</p> <p>15 of the question. I think I would take</p> <p>16 issue with any knowledge. We can step</p> <p>17 outside and we can -- outside the</p> <p>18 hearing of the witness so I can explain</p> <p>19 to you what I think the disconnect might</p> <p>20 be. And you can come back and rephrase</p> <p>21 the question.</p> <p>22 I don't want to interrupt your</p> <p>23 examination but I think you may be</p> <p>24 talking a little bit past each other.</p> <p>25 And I could clear that up and I'd rather</p>

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2 do that outside the hearing of the
3 witness so --

4 MR. THOMAS: Okay. Sure. Why
5 don't we go off the record and just take
6 a minute.

7 THE VIDEOGRAPHER: The time is
8 10:10. We are going off the record.
9 (Recess taken.)

10 THE VIDEOGRAPHER: The time is
11 10:12. We are back on the record.

12 BY MR. THOMAS:

13 Q. Mr. Kruse, at the suggestion of
14 your counsel I just wanted to clarify whether
15 you believe there is a list of CUSIPS or any
16 other document that identifies the particular
17 items that are contained in subsection D.

18 A. There is not, to my knowledge.

19 Q. So when you were talking about a
20 list of CUSIPS that you had what were you
21 referring to?

22 A. I was referring to the securities
23 actually transferred as the deal was
24 culminated on the 22nd.

25 Q. The fed repo collateral?

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2 A. Yes. Among others.

3 Q. Okay. Turning to subpart E, 50
4 percent of each position in the residential
5 real estate mortgage securities.

6 Do you see that?

7 A. Yes.

8 Q. What is LBHI's understanding of
9 the value of those securities as of September
10 17th, 2008?

11 MR. TAMBE: And objection to the
12 form of the question.

13 A. LBHI's understanding as of that
14 date?

15 Q. LBHI's understanding at any time
16 as to the value of those securities as of that
17 date.

18 A. LBHI's understanding would be
19 embodied from the documents that are available
20 at the time this deal was being negotiated.
21 And in terms of what the individual employees
22 of LBHI understood, again, I think those
23 people have generally moved over to Barclays
24 who would have had a specific understanding of
25 this.

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2 Q. When you say generally, which
3 employees still at the estate would have some
4 understanding of this?

5 A. None that I can think of as I sit
6 here.

7 Q. Okay. So the value would be in
8 estate documents but that's -- you haven't
9 gone and tried to figure out the value of
10 these securities as of September 7th for
11 purposes of this deposition. As of September
12 17th, excuse me.

13 A. No. I have not attempted to
14 determine the value of that particular item
15 for purposes of my evaluation.

16 Q. Has Alvarez ever attempted to
17 value those securities as of September 17th?

18 MR. TAMBE: Again, I'll caution
19 the witness to the extent that Alvarez
20 has been asked or not asked to do
21 particular tasks by counsel, that would
22 be covered by work product privilege.

23 A. Yeah. Anything we've done on
24 this -- in that respect would have been done
25 under a direction of counsel.

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2 Q. So Alvarez first got the call to
3 get involved on the night of September 14th;
4 is that right?

5 A. Yes.

6 Q. And you said they were involved
7 with Lehman starting the next day.

8 A. We had people on the ground the
9 next day.

10 Q. And those people would have been,
11 among other things, working to learn about
12 this sales transaction with Barclays?

13 A. Well, I think Brian Marsal who
14 you're going to be deposing in a few days can
15 speak to this more directly than I but it's my
16 understanding that the Alvarez & Marsal people
17 who were on site were essentially directed not
18 to get involved in the deal, itself, you know,
19 that this was something that was going to be
20 handled independent of our involvement and our
21 role was really to administer the estate
22 separate and apart from the deal that was
23 being negotiated at that point.

24 Q. What's the basis of that
25 understanding?

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A. Discussion with Brian Marsal and various other people who were on site at the time.

Q. Are you saying that somebody at Lehman told Alvarez not to get involved with the sale transaction?

A. In sum and substance. I don't know if I'd characterize it exactly that way. But it was well understood on the part of our team, as I understand it, that our participation, our involvement in the deal, itself, was not something that anybody wanted or expected.

Q. Can you describe who said what to whom?

A. I think you're probably better asking Brian Marsal the specifics of that.

Q. Can you describe anyone at Lehman who had that type of discussions with anyone at Alvarez?

A. All I can do is guess and I don't think you want me to do that.

Q. Well, if you have any basis for guessing I'll take your guess with the caveat

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that it's a guess.

A. I would infer that Steven Berkenfeld might have been one of the people that was directing that aspect of our retention.

Q. So is it your testimony prior to closing that Alvarez was not involved in any way in the sales transaction?

A. Yes, it is my testimony.

Q. And it was not reviewing documents?

A. In connection with the sales transaction.

Q. Yes.

A. No. We were not.

Q. When did anyone from Alvarez first review any of the sale documents, to your knowledge?

A. Within a few days after closing I've seen e-mail correspondence speaking to I think what I referred to earlier, an attempt to gather just the factual data of the specific securities and CUSIPS that were transferred over in the deal so that we had

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that data essentially locked down for purposes of administering the estate, knowing what was ours and what was not ours and what had moved over in the deal.

Q. Turning to subpart F, Furniture and Equipment, what is LBHI's understanding of the value of those items as of September 17th?

A. LBHI's understanding?

Q. Yes.

A. Again, I'm going to have sort of a repetitive comment about LBHI because I think anybody LBHI as I say who would have been focused on these particular things was generally moved over to Barclays. The LBHI documents I think speak for themselves and have been made available in terms of what these things might have been recorded at, et cetera. I'm not aware of any independent valuation done of furniture and equipment, for example. I don't even think a value was ascribed in the context of the deal.

Q. Okay. And, again, you haven't reached out to people still at Lehman to see if they know about these values, correct?

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A. I think we went over what I had done in preparation for the deposition. I'd spoken to certain of these people. But not directly in connection with my preparation for the deposition.

Q. I mean, let me ask. Did you ask anyone at Lehman if they knew if there was any valuation of the items under Purchased Assets?

A. I don't recall asking that question specifically. It's pretty clear from the documentation I've seen that nobody attempted to ascribe a value. It's as if it was thrown into the deal inherently but no one attempted to ascribe furniture and equipment -- ascribe a value.

Q. I'm sorry.

A. No.

Q. Do you have any understanding as to why there was no attempt to ascribe a value for some of these items?

A. I do not.

Q. Let me just ask you then, maybe to speed things up, if you'd take a minute to just go through all -- briefly review all the

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other subparts under the definition of Purchased Assets. And I'm going to ask you a very similar line of question that covers all of them. So if you want to take a minute to review that, please do.

A. Items G through the end of that section?

Q. Yes. G through S.
(Document review.)

A. Okay.

Q. As you sit here today either in your capacity as the LBHI representative or the Alvarez representative, do you have any understanding of the value of any of those items, G through S, as of September 17th, 2008?

MR. TAMBE: Objection to the form of the question.

A. There -- as far as I know in connection with the deal, itself, there was little, if any, attempt to ascribe a value to the various individual classes of assets that are described here.

You know, I think in the context

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of the deal there was a \$250 million price for the franchise, if you will, that was ascribed and I would think most people who were involved with the deal would have said that was intended to include items like this.

If your question is different than that, is there a separate independent attempt to ascribe a value to any of this on the part of LBHI, I think that question could best be answered by the people who are intimately involved in the deal itself who have since moved over to Barclays.

In terms of anything A&M has done in that vein, again, the answer would be any work done in the context of valuation of the deal, itself, would have been done under direction of counsel.

MR. THOMAS: And just to be clear, you're instructing him not to answer as to the amount or the valuation of any of these items.

MR. TAMBE: What I'm instructing him not to answer is to the extent the valuation work or the valuation

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understanding he has learned is from work directed by counsel, he shouldn't be talking about that. If he has other bases for knowing valuations ascribed by others to those assets you can ask him about that.

MR. THOMAS: Okay.
BY MR. THOMAS:

Q. Do you have any basis for knowing the values of any of the items listed under Purchased Assets other than from the work done at the direction of counsel?

A. A stand-alone valuation, no. I think I've seen information suggesting book value or accounting some of these -- what some of these items might have been recorded at in the books and records of Lehman at the time.

Q. Do you know -- can you identify what those values were recorded in the books and records of Lehman at the time for any of these?

A. No. Not as I sit here.

Q. Did you understand that to be the information sought in topic 1 of the

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deposition notice?

MR. TAMBE: I object to the form of that question. We certainly didn't understand topic 1 to be a memory quiz of various items of valuation for various assets. If you have documents to show him -- he said documents reflect values ascribed by others. If you show him documents he can confirm for you what his views are on those documents.

MR. THOMAS: Well, the topic is for the market value of a list of assets. And your 30(b)(6) witness can't identify any values for any of those assets. So maybe he certainly could have -- if it was a memory issue he certainly could have prepared a document or notes to tell him what the values are. But that's what the topic asked for and I just want to confirm --

MR. TAMBE: I disagree in terms of what you think the obligations would be to respond to a notice such as that. But it's fine. You can ask your

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2 question.

3 A. I think there was a pending
4 question as to what I did in connection with
5 topic number 1.

6 Q. No. It's what you under --
7 whether you understood topic number 1 to be
8 seeking information concerning the market
9 values of the assets listed in the definition
10 of Purchased Assets in the APA.

11 A. I read this topic to say your
12 understanding as of September 17th, 2008 of
13 the market value of each asset set forth in
14 each subparagraph that mention purchased
15 assets, et cetera. And how that changed at
16 any time before the closing.

17 I think I've testified that
18 generally speaking Alvarez & Marsal had no
19 knowledge of what these items were worth
20 during that time frame. No involvement. No
21 knowledge. Any knowledge on the part of LBHI,
22 as I've testified already that LBHI's
23 knowledge would be best embodied by people who
24 are now employed by Barclays and in the
25 documents that have been produced in this

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2 case.

3 Q. Okay. So just to be clear,
4 there's information about the values of these
5 items that are in Lehman documents but you
6 haven't gone and tried to identify those
7 values, correct?

8 A. No. Not in a comprehensive way.
9 I'm aware generally of the documents that
10 might refer to it but we're talking about
11 volumes of material here.

12 Q. And I really don't want to belabor
13 this but are there any assets here that you
14 feel that you can tell us the market value as
15 of September 17th? And here being items
16 listed under Purchased Assets.

17 MR. TAMBE: Object to the form of
18 the question.

19 A. I may have misread what this topic
20 intended. Your understanding as of September
21 17th, 2008 of the market value. I've said we
22 had no understanding as of September 17th,
23 2008. We also had no understanding through
24 the date of the closing as to what the market
25 value was.

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2 Q. Okay.

3 Well, we'll revisit that in later
4 topics.

5 In terms of the liabilities -- let
6 me back up one second.

7 I think you made a comment that
8 maybe some of these -- or some or all of the
9 items would have been covered by the
10 \$250 million payment. Do you recall
11 mentioning that?

12 MR. TAMBE: Objection to the form
13 of the question.

14 A. I recall saying something along
15 those lines.

16 Q. Okay. What was your basis for
17 that?

18 A. It's really surmising what we
19 learned in the discovery in the case thus far
20 as to what the \$250 million acquisition
21 cost -- element of the acquisition cost was
22 intended to be cover.

23 Q. Is that just your surmise or is
24 there some information that that's based on?

25 A. I can't quote specifically every

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2 source for that but that's a general surmise
3 from the totality of the evidence I'm aware of
4 in this case. The deposition testimony.
5 Other e-mails and other documents that I've
6 seen.

7 Q. And you can't point to anything in
8 particular.

9 A. Not as I sit here, no.

10 Q. Is it your belief that the value
11 of all of the items underneath Purchased
12 Assets totaled up would be less than 250
13 million?

14 MR. TAMBE: That's not what he
15 testified to. That was the answer to
16 items G through S.

17 MR. THOMAS: Okay. Thanks for
18 clarifying that.

19 MR. TAMBE: Yeah.

20 Q. Are you just referring to items G
21 through S? When you say 250 million?
22 Or let me just strike that.

23 To be clear, what items do you
24 think were covered by the 250 million?

25 A. I think as I testified, it's my

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Alvarez has done at the direction of counsel
this year; is that correct?

MR. TAMBE: Objection to the form
and that's not his testimony.

A. Specific to your topic as I
understood in reading this topic, Alvarez &
Marsal's understanding as of September 17th,
2008 of the market value of each of these
classes of assets under Purchased Assets, we
had no understanding as of that date or as of
the closing date.

Q. And LBHI obviously did. So with
respect to LBHI, can you tell me your
understanding of any of these values?

MR. TAMBE: Again, asked and
answered. Go ahead.

A. I think LBHI's understanding can
best be gleaned from speaking to employees
that have gone over to Barclays.

Q. When did Alvarez become aware
that -- strike that.

Looking at topic number 2, what is
Alvarez's understanding of the \$47.4 billion
figure that was referenced during the

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September 19th sale hearing?

A. I'm sorry. What is our
understanding of that figure?

Q. Yes. And what it is, what it
represents.

A. Alvarez -- I don't believe Alvarez
has any understanding of how that number
derives or how it was determined at that time.

Q. How about LBHI? What is its
understanding?

A. I've not seen any discovery speak
to how this number was derived in the course
of anything I've seen. So while I could give
my standard answer as it relates to LBHI and
say that that could best be gleaned from
speaking to people who have since moved over
to Barclays, I haven't seen anything in
discovery that would speak to that specific
knowledge of that number.

Q. So you have no idea as you sit
here today what that number represents?

MR. TAMBE: Objection to the form
of the question.

A. I don't know if I would say no

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idea. I mean, it's obviously -- you know, you
can infer what it was intended to represent.
I just haven't seen a correlation how that
number was derived and how it was -- how it
correlates to the securities that are actually
transferred in the deal.

Q. What is your best understanding of
what that number represents?

A. My best understanding of what that
number represents.

MR. TAMBE: Objection to the form
of the question.

A. I don't know specifically what it
represents. I infer that it was intended to
represent the value of the securities that
were transferred in the deal.

Q. What's your basis for that answer?

A. I've read the transcript that this
is cited from at some point previously. It's
been a little while since I've read that
specifically but that's what I remember in
terms of my impression as I read it.

Q. Have you -- what efforts did you
make to be able to describe the \$47.4 billion

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figure for purposes of the deposition?

A. I would say there were efforts
throughout the Rule 2004 discovery to
understand specifically how that number was
derived. To my knowledge, there was no
evidence that I'm aware of that would suggest
specifically how that number was derived.

Q. So for purposes of the deposition
in your preparation for the deposition did you
take any steps to try to find out how that
number was derived or what it represented?

MR. TAMBE: Objection to the form
of the question. And asked and
answered.

A. Specific to the deposition I would
have confirmed in my mind through discussions
with others that we don't have any basis for
understanding how that number was derived. I
don't know what else to say. We don't
under -- we don't have a specific
understanding of how that number was derived.

Q. Okay. Did you pick up the phone
and call someone and ask them about that
number?

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 discovery in this matter that may speak to</p> <p>3 some of this. But that's in the record of</p> <p>4 this matter as we sit here.</p> <p>5 Q. Okay. So -- and you said as of</p> <p>6 September 17th, and that's true for any time</p> <p>7 through closing?</p> <p>8 A. Yes.</p> <p>9 Q. Did Alvarez have any understanding</p> <p>10 of these liabilities during that period of</p> <p>11 time?</p> <p>12 A. During that period of time, no.</p> <p>13 Q. And we'll come back in a later</p> <p>14 topic to later points in time.</p> <p>15 All right. Let's -- can you point</p> <p>16 me to any particular documents that would show</p> <p>17 what LBHI thought was the value of any of</p> <p>18 these liabilities the week of September 17th</p> <p>19 up to closing?</p> <p>20 A. I know there have been various</p> <p>21 balance sheet data produced in the -- in this</p> <p>22 matter that would speak to the reported book</p> <p>23 value of those liabilities.</p> <p>24 Q. Can you identify any?</p> <p>25 MR. TAMBE: Objection to form.</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. Not beyond the general description</p> <p>3 of various balance sheet data I've seen in the</p> <p>4 course of reviewing the material --</p> <p>5 Q. Okay.</p> <p>6 A. -- in this case.</p> <p>7 Q. Do you know how those values were</p> <p>8 derived?</p> <p>9 A. Not specifically. I understand</p> <p>10 accounting and I understand how liabilities</p> <p>11 are generally recorded and on what basis.</p> <p>12 Q. Let me show you a document that's</p> <p>13 been previously marked as Exhibit 25. Are you</p> <p>14 familiar with that document?</p> <p>15 (Document review.)</p> <p>16 MR. TAMBE: Just give him a</p> <p>17 moment.</p> <p>18 A. Yes.</p> <p>19 Q. Could you describe what you</p> <p>20 understand it to be, please.</p> <p>21 A. It's what's been generally</p> <p>22 referred to in this matter as the</p> <p>23 clarification letter.</p> <p>24 Q. And when was the first time you</p> <p>25 saw this document?</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. In or about January 2009.</p> <p>3 Q. Do you know when the first time</p> <p>4 anyone at Alvarez reviewed this document?</p> <p>5 A. Not specifically. I can say that</p> <p>6 Alvarez as a whole didn't undertake a</p> <p>7 comprehensive review of the transaction until</p> <p>8 January of 2009.</p> <p>9 Q. Well, putting aside the qualifier</p> <p>10 of comprehensive review, do you know when</p> <p>11 anyone at Alvarez first saw this document?</p> <p>12 A. When anyone at Alvarez first saw</p> <p>13 it.</p> <p>14 Q. This document, yes.</p> <p>15 A. I don't think I could tell you</p> <p>16 when anybody at Alvarez first saw this</p> <p>17 document.</p> <p>18 Q. Okay. Is it your understanding</p> <p>19 that the -- this document, we'll call it the</p> <p>20 clarification letter, conveys to Barclays all</p> <p>21 of the collateral associated with the fed</p> <p>22 repo?</p> <p>23 MR. TAMBE: Objection.</p> <p>24 Q. Let me stop you. Do you know what</p> <p>25 I mean when I refer to the fed repo?</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. The fed repo that was in place on</p> <p>3 the 17th and then Barclays stepped into that</p> <p>4 on the 18th?</p> <p>5 Q. Correct.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. If I refer to the fed repo</p> <p>8 we're on the same page?</p> <p>9 To your understanding the</p> <p>10 clarification letter transferred all of the</p> <p>11 collateral associated with the fed repo to</p> <p>12 Barclays.</p> <p>13 MR. TAMBE: Objection to the form</p> <p>14 of the question.</p> <p>15 A. I agree that that was the intent</p> <p>16 of the letter. Among other items, of course.</p> <p>17 Q. And is your qualification because</p> <p>18 some of the collateral actually didn't get</p> <p>19 transferred?</p> <p>20 A. That's not what I had in mind.</p> <p>21 I'm disagreeing with your assertion.</p> <p>22 Q. Sure. Sure.</p> <p>23 So as of closing, presumably LBHI</p> <p>24 would have understood that the fed repo</p> <p>25 collateral was being transferred to Barclays,</p>

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 correct?</p> <p>3 MR. TAMBE: Objection to the form</p> <p>4 of the question.</p> <p>5 A. LBHI would have understood that,</p> <p>6 yes.</p> <p>7 Q. When did Alvarez first come to</p> <p>8 understand that?</p> <p>9 A. I think that a few days after the</p> <p>10 closing as we began to gather data again as to</p> <p>11 the specific securities that were transferred</p> <p>12 to Barclays in connection with the deal, we</p> <p>13 became aware that they were transferred</p> <p>14 pursuant to a repo agreement based on the</p> <p>15 documents that I've seen. So there was</p> <p>16 knowledge of the repo deal and its connection</p> <p>17 to the transfer of the securities in the days</p> <p>18 after the closing.</p> <p>19 Q. Okay. Are you familiar with the</p> <p>20 term "haircut"?</p> <p>21 A. Yes.</p> <p>22 Q. In the context of a repo or a</p> <p>23 repurchase agreement, what do you understand</p> <p>24 that term to mean?</p> <p>25 A. A haircut is a --</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 MR. TAMBE: Just objection to the</p> <p>3 extent it goes beyond the scope of the</p> <p>4 30(b)(6). You can answer the question.</p> <p>5 A. I understand a haircut to be a</p> <p>6 negotiated item between two parties engaged in</p> <p>7 a repurchase agreement which is intended to</p> <p>8 compensate for the risk of default to one of</p> <p>9 the parties of the deal.</p> <p>10 Q. Is it the amount of collateral</p> <p>11 value in excess of the loan amount?</p> <p>12 MR. TAMBE: Objection to the form</p> <p>13 of the question. Is there a specific</p> <p>14 topic in the 30(b)(6) this question is</p> <p>15 aimed at?</p> <p>16 MR. THOMAS: Sure. This is part</p> <p>17 of the repo. It's something that you</p> <p>18 described as a haircut in documents so</p> <p>19 I'm not sure what you're talking about.</p> <p>20 MR. TAMBE: At least to the extent</p> <p>21 you're asking him generally about the</p> <p>22 workings of repo and how repo</p> <p>23 transactions are supposed to work, I</p> <p>24 think that's not what this witness is</p> <p>25 here for. You can ask him about what</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 his understanding may be of the repos</p> <p>3 used in this context or the repo in this</p> <p>4 transaction. It may go to some of your</p> <p>5 valuation questions.</p> <p>6 MR. THOMAS: I think it's within</p> <p>7 because you've used that term in</p> <p>8 connection with collateral repo,</p> <p>9 collateral, and it's hard to examine the</p> <p>10 witness without having the same</p> <p>11 understanding of what the term is.</p> <p>12 MR. TAMBE: With your</p> <p>13 characterization I'm going to let him</p> <p>14 answer the question. I do think it's</p> <p>15 beyond the scope of the 30(b)(6).</p> <p>16 MR. THOMAS: Okay.</p> <p>17 MR. TAMBE: If you have the</p> <p>18 question in mind.</p> <p>19 THE WITNESS: I do not.</p> <p>20 BY MR. THOMAS:</p> <p>21 Q. Okay. And I'm just asking. Is</p> <p>22 your understanding of the term haircut that</p> <p>23 it's the amount by which the value of the</p> <p>24 collateral exceeds the loan amount?</p> <p>25 MR. TAMBE: I'll object to the</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 form of the question. You can answer.</p> <p>3 A. Yes. I would agree with that</p> <p>4 characterization. Value as ascribed by the</p> <p>5 repo agent.</p> <p>6 Q. And is that a common term in this</p> <p>7 industry, haircut?</p> <p>8 A. Yes. I think it is.</p> <p>9 Q. So people generally at Alvarez</p> <p>10 would understand what that term means?</p> <p>11 A. Depending on their particular</p> <p>12 industry focus I believe people would</p> <p>13 understand, you know, the nature of the term.</p> <p>14 Q. Okay. Let me show you another</p> <p>15 document we'll mark as 459A.</p> <p>16 (Deposition Exhibit 459A, document</p> <p>17 bearing production numbers WGM-LEHMAN-E</p> <p>18 00005736 through WGM-LEHMAN-E 00005740,</p> <p>19 marked for identification as of this</p> <p>20 date.)</p> <p>21 BY MR. THOMAS:</p> <p>22 Q. And I'm not going to ask you about</p> <p>23 the whole chain but if at any point you feel</p> <p>24 you need to review it you're certainly welcome</p> <p>25 to. But I could start by asking you if you</p>

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2 marks and the valuation.

3 BY MR. THOMAS:

4 Q. Okay. What was -- what did Lazard
5 do that week to try to get a better sense of
6 how the marks had evolved from Friday,
7 September 12th, 2008?

8 A. My general understanding is that
9 Barry Ridings and perhaps others from Lazard
10 were observing the course of the activities as
11 a deal was being negotiated on I believe the
12 30th floor at the 745 building. And observed
13 various meetings amongst certain of the
14 parties that were involved. You know, based
15 on the record I've seen, very unclear to me
16 the degree to which they were able to
17 ultimately fully understand and appreciate how
18 Hugh the marks evolved as it's characterized
19 here in this e-mail.

20 Q. When you say observing the course
21 of the activities, what are you referring to
22 in particular?

23 A. Observing the conduct of the
24 people talking to each other in the course of
25 the negotiations. Just being in various

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2 meetings, various rooms, as multiple aspects
3 of the transaction were being discussed. I
4 don't have much specifics beyond that. I
5 really think the question is ultimately best
6 directed of course to Lazard representatives.

7 Q. Is it your understanding that the
8 long positions referenced in the APA, the
9 original APA, had a total approximate value --
10 or strike that.

11 What is your understanding of what
12 the long positions value was marked as on
13 Lehman's books as of September -- Friday,
14 September 12th, 2008?

15 MR. TAMBE: Objection to the form
16 of the question.

17 A. The long positions that are
18 contemplated in the 9/16 APA?

19 Q. Yes.

20 A. Stated in the APA at \$70 billion,
21 roughly.

22 Q. Approximately.

23 A. And you're asking me about my
24 knowledge of the value of those securities on
25 September 12th?

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2 Q. Yes.

3 A. Okay. I don't think I have a
4 specific understanding as I sit here of that.
5 I think it's perhaps something we've looked
6 into but I don't -- as I sit here I don't
7 think I can tell you a specific relationship.

8 Q. Have you seen assertions in some
9 of the Rule 60 motions that those marks were
10 valued at closer to 75 billion on Friday,
11 September 12th?

12 A. The assertions I've seen are not
13 specific to the date. I generally understood
14 the assertions to be contemporaneous with the
15 day that they were being talked about.

16 Q. Well, after the Lehman bankruptcy,
17 after -- what knowledge do you have as to
18 whether there was any efforts -- strike that.

19 What efforts are you aware of to
20 mark those long securities, that is to put a
21 value on them, after September 12th, 2008?

22 MR. TAMBE: Objection to the form
23 of the question.

24 A. I'm sorry. Would you please
25 repeat that?

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2 Q. Sure. What efforts are you aware
3 of to value the long positions, Lehman's long
4 positions, after September 12th and prior to
5 closing?

6 MR. TAMBE: Objection to form.

7 A. Well, the -- I understand that
8 they were -- Lehman was continuing to operate
9 as close as they could to business as usual,
10 understanding, of course, under the
11 circumstances there were I'm sure a lot of
12 challenges there given that the parent company
13 had filed for bankruptcy on the morning of the
14 15th. And, you know, the efforts I understand
15 were continuing to value securities in the
16 course of that week.

17 Q. And who was continuing to value
18 securities during the course of the week?

19 A. I can't speak specifically. I've
20 heard -- Ian Lowitt, as you're probably aware,
21 testified in his deposition that he believed
22 the marks were accurate as of the dates that
23 they were stated in Lehman's books during that
24 week.

25 Q. Other than Ian Lowitt's deposition

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testimony do you have any other basis for knowing whether the marks were accurate or whether they were being kept up to date during that week?

MR. TAMBE: Objection to the form of the question.

A. Well, as I stated, I have a general understanding that there were ongoing efforts to run the business as usual. And to me that would entail doing what they typically did as marking their books on a daily basis for the trading assets.

Q. Okay. Other -- what is your basis for that understanding that they were marking their books? Do you have any other basis for that understanding that they were continuing to mark their books after declaring bankruptcy other than Ian Lowitt's deposition testimony?

A. Well, they would have been -- the securities would have been marked independently by Lehman and also by the clearing agent. In this case JPMorgan Chase. They have their own independent way in which they valued securities that didn't necessarily

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equate to Lehman's practices. So there were ongoing -- as I understand it, ongoing efforts to keep contemporaneous marks on these securities.

Q. Let's focus on Lehman's efforts to mark its securities after September 12th, 2008. Other than Mr. Lowitt's deposition testimony, do you have any basis for knowing that Lehman did, in fact, continue to try to mark those on a daily basis?

A. As I stated, I have a general understanding that they were continuing to attempt to operate business as usual, recognizing that there were likely challenges in that environment. I'm aware that there were these contemporaneous valuations being done by the clearing agent. And I have a general understanding that those valuations continued to dovetail relatively closely to what Lehman was marking the positions at that time. Based on that totality of information I surmised that there were continuing attempts to value the securities during that week.

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Q. Do you have knowledge of what Lehman was marking the securities as of that week? Of long positions?

MR. TAMBE: Objection to the form of the question.

A. Not specifically beyond what I've just stated.

Q. Do you have any understanding whether the long positions -- there would be a difference in the market value of the long positions between September 12th and September 16th?

A. I'm sorry?

Q. Do you have any understanding of whether there was a difference or would have been a difference between the long positions' value on September 12th, 2008 versus September 16th, 2008?

MR. TAMBE: Objection to form.

A. Well, there would have been differences just by virtue of any fluctuations in the market, of course. And you also -- I think it's relevant to recognize that the make-up of the securities likely would have

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been different to some degree between those two dates. This is an ongoing operation where securities move in and out, et cetera.

Q. Is it fair to say in those particular days in that market with Lehman declaring bankruptcy that the fluctuations would have been downward as of between September 12th and September 16th?

MR. TAMBE: Objection to the form of the question. And objection to the extent it extends beyond the scope of the 30(b)(6). The witness can answer.

A. Probably depends on the nature of the security. Treasuries may have been more highly valued. Very low risk securities or securities perceived to be low risk might have, in fact, increased in value during that week given the flight to safety, so to speak, that was occurring. Securities viewed as being more risky, it's reasonable to assume that they would have been going down in value.

Q. Overall, do you have a sense of whether the values would have gone up or down from September 12th to September 16th?

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 MR. TAMBE: Objection.</p> <p>3 Q. The total value of the long</p> <p>4 positions.</p> <p>5 MR. TAMBE: Object to the form of</p> <p>6 the question.</p> <p>7 A. I don't know if I can speak</p> <p>8 specifically to it. Although, certainly my</p> <p>9 general recollection of the material I've seen</p> <p>10 would suggest that overall the values were</p> <p>11 going down.</p> <p>12 Q. So you would expect the overall</p> <p>13 value of Lehman's long positions as of</p> <p>14 Tuesday, September 16th, to be lower than they</p> <p>15 were on Friday, September 12th; is that fair?</p> <p>16 MR. ROTHMAN: Objection to the</p> <p>17 form.</p> <p>18 A. Difficult to generalize. And I</p> <p>19 don't have any specific data in mind. But,</p> <p>20 again, depending on the nature of the security</p> <p>21 and the makeup of the portfolio that</p> <p>22 fluctuation very well may have been down</p> <p>23 overall.</p> <p>24 Q. Now, do you have any information,</p> <p>25 hard information, has anyone to your knowledge</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 studied that issue, comparing the values of</p> <p>3 the longs from September 12th, 2008 to</p> <p>4 September 16th, 2008?</p> <p>5 MR. TAMBE: Objection to the form</p> <p>6 of the question. And objection to the</p> <p>7 extent that it asks the witness to</p> <p>8 disclose what may be work product</p> <p>9 protected analysis.</p> <p>10 A. Any work that A&M has done in</p> <p>11 connection with the general subject of</p> <p>12 valuation of securities has been done at</p> <p>13 direction of counsel.</p> <p>14 Q. Okay. So let me just go and ask.</p> <p>15 Can you tell me what the value of the longs</p> <p>16 were on September 16th based upon anything</p> <p>17 Alvarez or LBHI has done?</p> <p>18 MR. TAMBE: Same objection.</p> <p>19 A. The value of the longs at</p> <p>20 September 16th. I think you -- it might be</p> <p>21 helpful to reflect on the context here. I'm</p> <p>22 not even sure anybody, as far as I'm aware,</p> <p>23 can tell you specifically CUSIP by CUSIP what</p> <p>24 these securities were. It was a general --</p> <p>25 there were general attempts to identify the</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 available securities that could have gone in a</p> <p>3 transaction at that date under extraordinarily</p> <p>4 difficult circumstances. I'm not even aware</p> <p>5 of a list that would enable anybody to depict</p> <p>6 this value at that date.</p> <p>7 Q. A lot of the assets were illiquid.</p> <p>8 A lot of the long positions of Lehman's were</p> <p>9 illiquid; is that fair?</p> <p>10 MR. TAMBE: Objection to the form</p> <p>11 of the question.</p> <p>12 A. I don't know -- perhaps we would</p> <p>13 have to agree on what illiquid means in this</p> <p>14 context.</p> <p>15 Q. That's not a term --</p> <p>16 A. Obviously any asset is salable</p> <p>17 under the right circumstances.</p> <p>18 Q. Were there any assets -- were any</p> <p>19 of the LBHI assets what you would consider to</p> <p>20 be illiquid the assets in the long positions?</p> <p>21 A. Were any of the assets in the long</p> <p>22 positions illiquid?</p> <p>23 MR. TAMBE: Objection to the form</p> <p>24 of the question. And beyond the scope</p> <p>25 of the 30(b)(6).</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 Q. Are you familiar with the term</p> <p>3 illiquid?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Do you contest that some of</p> <p>6 LBHI's assets were illiquid and therefore</p> <p>7 difficult to value during this time period of</p> <p>8 the sale transaction?</p> <p>9 A. Perhaps it would help if we</p> <p>10 agree -- if I understand what your definition</p> <p>11 of illiquid is. You know, illiquid is a</p> <p>12 very -- I take it as a term that could have a</p> <p>13 lot of different meanings to different people.</p> <p>14 Q. Well, why don't you give me your</p> <p>15 definition and we'll go with that.</p> <p>16 A. I don't have a definition. I'm</p> <p>17 not asking the question.</p> <p>18 Q. Difficult to sell and therefore</p> <p>19 difficult to value?</p> <p>20 A. No question. There are various</p> <p>21 types of securities that are easier to sell,</p> <p>22 have a more active market than others. I</p> <p>23 accept that premise, yes.</p> <p>24 Q. And were LBHI's securities</p> <p>25 difficult to value?</p>

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MR. TAMBE: Objection to the form of the question.

Q. As of September 16th, 2008?

MR. TAMBE: Same objection.

A. I don't think I would accept that characterization, no.

Q. Have you read Mr. McDade's deposition testimony?

A. Yes, I have.

Q. Okay. Let me go back to the current document which is 460A. Are you familiar with the Lehman GPS system?

A. Yes.

Q. Would you describe what it is, please?

MR. TAMBE: Object to the form of the question but you can answer.

A. It's one of the systems -- and I equate it in my mind sitting here today as the system that was used to obtain valuations in the context of the ordinary course of business. I don't have full functionality in mind as I sit here although I've known that at other times better than as I sit here.

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case that there was a characterization by many that there was a bulk sale discount being ascribed in the context of the deal.

Q. Other than your reading of case materials, do you have any understanding of what that discount referred to?

A. No.

Q. LBHI under -- well, strike that. Could you be more specific in what you understand the buyer discount to refer to?

MR. TAMBE: Object to the form of the question.

A. More specific on what the buyer discount refers to?

Q. Yes.

A. Not beyond what I've just said. I don't think so.

Q. It's based on buying in bulk; is that what your understanding was?

MR. TAMBE: Objection to the form of the question.

MR. THOMAS: I'm just repeating back his answer.

MR. TAMBE: It's asked and

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Q. Other than Ian Lowitt who was involved in marking Lehman's securities?

MR. TAMBE: Objection to the form of the question.

A. Presumably there were numerous people involved in that.

Q. Did you speak with anyone from Lazard in preparation for your deposition?

A. No. Not in preparation for my deposition.

Q. The e-mail from Mr. Bruhmuller is, "I think the first priority would be to see the inventory of what's being sold, how the marks have evolved, and info on the buyer 'discount'."

Do you see that?

A. Yes.

Q. Do you have any understanding of what he's referring to by the buyer discount?

MR. TAMBE: Object to the form of the question.

A. Not specifically, no.

Q. Generally?

A. Well, generally, I'm aware in the

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answered. But are you asking him what he thinks the author meant by this phrase? Or what those words mean to him?

MR. THOMAS: No. His understanding.

MR. TAMBE: Okay.

A. When I use the term bulk sale discount I'm using a phrase I've heard or paraphrasing a phrase I've heard in the course of the discovery in this matter. I think what people intended that to mean can best be directed toward the people who are using it in this context.

Q. Are you aware that Barclays' representatives in the sale negotiations took issue with some of the valuations of the Lehman marks?

A. I'm familiar with the testimony around that subject, yes.

Q. Let's turn to the valuation not of the original assets but of the collateral associated with the fed repo. Has Alvarez ever attempted to value the fed repo

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 collateral?</p> <p>3 MR. TAMBE: Objection to the form</p> <p>4 of the question.</p> <p>5 A. At the risk of being repetitive,</p> <p>6 anything we'd done in the context of valuation</p> <p>7 of the securities had been done under</p> <p>8 direction of counsel and I believe would be</p> <p>9 covered by the privilege.</p> <p>10 Q. Okay. So if I ask Alvarez's</p> <p>11 understanding -- its understanding as to what</p> <p>12 the value of the fed repo collateral was, I'm</p> <p>13 going to get an instruction not to answer. So</p> <p>14 that's the question.</p> <p>15 MR. TAMBE: Let me be clear. If</p> <p>16 you're asking if A&M has derived at or</p> <p>17 explored an independent valuation of</p> <p>18 that collateral, yes, you would get an</p> <p>19 objection and instruction not to answer.</p> <p>20 If you ask questions as to their</p> <p>21 understanding of what values may have</p> <p>22 been ascribed by others including</p> <p>23 Barclays to do that collateral, you can</p> <p>24 get at it that way.</p> <p>25 MR. THOMAS: No, no. I just want</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 to confirm that you're not going to let</p> <p>3 the witness say what Alvarez's or LBHI's</p> <p>4 understanding of the value of the fed</p> <p>5 repo collateral is because it's based on</p> <p>6 work product.</p> <p>7 MR. TAMBE: No. And that's why I</p> <p>8 said what I did. That's not what I'm</p> <p>9 saying. If you're asking the witness to</p> <p>10 describe or state the basis for A&M's</p> <p>11 understanding or Lehman's understanding</p> <p>12 of the valuation of the assets, to the</p> <p>13 extent there's an understanding based on</p> <p>14 values ascribed by others including</p> <p>15 Barclays after the closing of the</p> <p>16 transaction, there's a basis for that</p> <p>17 understanding and I'll let the witness</p> <p>18 testify about what his understanding is</p> <p>19 about that.</p> <p>20 To the extent your question is</p> <p>21 have you independently, has LBHI or A&M</p> <p>22 independently post-closing done a</p> <p>23 valuation exercise of that collateral,</p> <p>24 that I am going to object to and say</p> <p>25 that is work product.</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 BY MR. THOMAS:</p> <p>3 Q. Okay. As you sit here today can</p> <p>4 you tell me what you believe the value of the</p> <p>5 fed repo value was as of the closing?</p> <p>6 MR. TAMBE: And subject to my</p> <p>7 objection you can answer the question.</p> <p>8 A. So I want to be careful to make</p> <p>9 sure I understand exactly what you're asking.</p> <p>10 My current understanding of the value of the</p> <p>11 collateral?</p> <p>12 Q. Yes.</p> <p>13 A. My current understanding is</p> <p>14 based -- to the degree I have an</p> <p>15 understanding -- on work done under the</p> <p>16 direction of counsel.</p> <p>17 Q. Did Alvarez ever have an</p> <p>18 understanding of the value of the repo</p> <p>19 collateral prior to its work that's being</p> <p>20 claimed as work product?</p> <p>21 MR. TAMBE: Objection to the form</p> <p>22 of the question for the reasons stated</p> <p>23 below as to what you mean by</p> <p>24 understanding.</p> <p>25 A. Does Alvarez -- I'm sorry. I</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 just -- I'm trying to be careful as to what</p> <p>3 you're asking.</p> <p>4 Q. Okay. The claim is that your</p> <p>5 current knowledge of the value of the fed repo</p> <p>6 collateral is privileged work product.</p> <p>7 MR. TAMBE: No, that's not the</p> <p>8 position and that's why we're running</p> <p>9 into trouble here. You can have an</p> <p>10 understanding as to --</p> <p>11 MR. THOMAS: No, I asked him what</p> <p>12 his current understanding was and he</p> <p>13 said --</p> <p>14 MR. TAMBE: And there was an</p> <p>15 objection to that question.</p> <p>16 MR. THOMAS: But he said it would</p> <p>17 have to be biased upon privilege worked.</p> <p>18 MR. TAMBE: And the reason there</p> <p>19 was an objection to that question is you</p> <p>20 seem to be trying to get at is there</p> <p>21 independent valuation done by LBHI or</p> <p>22 A&M independent of information. There's</p> <p>23 lots of information on the record about</p> <p>24 values ascribed to that collateral. On</p> <p>25 and before the closing date. That's</p>

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2 certainly within their understanding as
3 to values ascribed by others. Okay. Go
4 ahead.

5 MR. THOMAS: I'm not trying to --
6 I know there's nominal marks that exist
7 that he might have read in a paper or
8 something else like that. I'm asking if
9 Alvarez, prior to -- independent of what
10 is being claimed as work product made
11 any effort to value that collateral, the
12 fed repo collateral.

13 A. No, we did not.

14 Q. Okay. What was Alvarez's
15 understanding as to the value of the fed
16 collateral prior to doing this work product
17 with counsel?

18 A. Any understanding we had about
19 values ascribed to the collateral would have
20 been gained post closing and in connection
21 with the gathering of data so that we
22 understood the securities that were
23 transferred in connection with the
24 transaction.

25 Q. And as you sit here today can you

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2 tell me what that understanding was in terms
3 of the amount of the fed repo collateral?

4 A. I think it would be more
5 appropriate or perhaps more safe, rather than
6 having me misstate a number, I'm thinking of
7 e-mails that I know some of the A&M people
8 were gathering the data and I think those
9 documents represent what our early
10 understanding was of the ascribed values.

11 Q. Okay. After the sale closed, what
12 was the purpose of your trying to get an
13 understanding of the value of the assets that
14 had been transferred? Yours being Alvarez's.

15 A. It was really from the perspective
16 of capturing the data that we thought was
17 going to be necessary for us to administer the
18 estate and understanding what was estate
19 assets, what was not estate assets. I think
20 there was some thought early on that we would
21 try to do a reconciliation of the securities
22 that were transferred, ensure that nothing was
23 transferred that should not have been
24 transferred under the deal.

25 That effort was not really

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2 feasible based on the information available to
3 us in that first quarter of the administration
4 of the estate.

5 But the context was ensuring we
6 had the data in hand while it was fresh in
7 everybody's mind as to what was transferred in
8 the deal.

9 Q. Let me show you a document we'll
10 mark as 461A.

11 (Deposition Exhibit 461A, document
12 bearing production numbers AM 004503
13 through AM 004595, marked for
14 identification as of this date.)

15 BY MR. THOMAS:

16 Q. Is this a document that you've
17 seen before?

18 A. Yes. I've seen this.

19 Q. And when did you see it?

20 A. When did I see it?

21 Q. Yes.

22 A. I would have first seen it pretty
23 much contemporaneous with the date of this,
24 October 8th, or the day or two before.

25 Q. And can you describe what the

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2 document is, please.

3 A. It is a Powerpoint dec assembled
4 by Alvarez & Marsal to report to the Unsecured
5 Creditors Committee on this date of October
6 8th. It was sort of a guide for communication
7 to the Unsecured Creditors at that point.

8 Q. And why was Alvarez & Marsal
9 relaying this information to the Creditors
10 Committee?

11 A. It was in the context of the
12 Creditors Committee is an important
13 constituent that we serve in the
14 administration of the estate and giving them
15 an early download as to our activities and how
16 we're getting ramped up and getting ready to
17 best serve our role as a chief restructuring
18 officer.

19 Q. If I could ask you to turn to page
20 28, please.

21 A. (Witness complies.)

22 MR. ROTHMAN: The Bates number or
23 the page?

24 MR. THOMAS: That's the page
25 number. The Bates number is AM 4531.

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2 Q. And let me just ask, who would
3 have prepared this document?

4 A. Who physically prepared it?

5 Q. Yes. Or determined what went into
6 the document.

7 MR. TAMBE: Object to the form.

8 Go ahead.

9 A. The document as a whole would have
10 been a joint effort. I had some participation
11 in a slide or two here as well. So, you know,
12 depending on who you see as the leader or the
13 discussion leader on a given subject that's
14 likely the person who directed the
15 preparation. The physical preparation was
16 probably somebody working underneath that
17 particularly person.

18 Q. Did Alvarez work with anyone at
19 Lehman or Lazard or anyone other than Alvarez
20 to pull this information together?

21 A. Not to my knowledge.

22 Q. Do you know who would have
23 prepared the information that appears on page
24 28 of the document?

25 A. I would presume Jim Fogarty was

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2 the person most responsible for compiling
3 this.

4 Q. Now, looking at the first arrow
5 where it says Assets Purchased, and then the
6 first bullet it says 43.1 billion repo assets,
7 book value per Lehman stale marks. Negotiated
8 a \$5 billion reduction.

9 Do you see that?

10 A. Yes.

11 Q. Do you have an understanding of
12 what's being referred to there?

13 A. I think the words speak for
14 itself. I'm not sure what your question is.

15 Q. Well, they may speak for
16 themselves but can you just describe what's
17 being said there?

18 A. Book value per Lehman "stale
19 marks" negotiated a \$5 billion reduction. I
20 think that says that at that point we had
21 gained an understanding that there was a
22 negotiated reduction as compared to the Lehman
23 marks because the previous marks were deemed
24 at that point to be stale by whoever was
25 communicating this information to us.

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2 Q. And what is your understanding of
3 the term stale there?

4 MR. TAMBE: Object to the form of
5 the question.

6 A. I would infer stale to mean that
7 it was outdated.

8 Q. Were you part of any oral
9 presentation to the Creditors Committee in
10 connection with this written presentation?

11 A. I was responsible for
12 communicating a relatively small portion of
13 this. At that point we were so busy we were
14 coming in and out of the room as our sections
15 were approaching. I was not present when this
16 was discussed.

17 Q. Um-hum. Was the document sent to
18 the Creditors Committee and also discussed
19 with them in a meeting? Or meetings?

20 A. There was a meeting where this
21 information was covered, yes.

22 Q. So was this a Powerpoint that was
23 handed out at a meeting and there was a
24 discussion of these -- of the information in
25 this document?

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2 A. Yes. There was a discussion of
3 this document in a meeting at Weil Gotshal's
4 offices.

5 Q. And the representatives of the
6 Creditors Committee were there?

7 A. Yes.

8 Q. Do you recall who in particular?

9 A. Not specifically. I mean, I know
10 and have met the two chairs of the Creditors
11 Committee and they're the only people I could
12 probably name by name and I'm fairly certain
13 they were there.

14 Q. And who are they?

15 A. July Becker and Noel Purcell.

16 Q. Other than people from Weil -- who
17 was there from Weil?

18 A. I don't recall specifically.
19 Again, I was only here in this meeting for a
20 relatively small slice of it. It was a very
21 large conference room that was quite full. I
22 know there were Weil people there but I can't
23 tell you specifically who was there at the
24 time I was there.

25 Q. Do you know if any -- anyone from

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 the trustee was there or from Hughes Hubbard?</p> <p>3 A. I don't think so.</p> <p>4 Q. Do you know if this was sent to --</p> <p>5 this document was sent to the trustee at some</p> <p>6 point?</p> <p>7 A. Not to my knowledge.</p> <p>8 Q. Are you aware of any communication</p> <p>9 with the trustee between Alvarez and the</p> <p>10 trustee concerning the sale transaction?</p> <p>11 MR. TAMBE: Object to the form of</p> <p>12 the question.</p> <p>13 A. I'm aware of communications, yes.</p> <p>14 Q. With the trustee concerning the</p> <p>15 sales transaction?</p> <p>16 A. Yes.</p> <p>17 Q. Can you just generally describe</p> <p>18 them in terms of time and substance.</p> <p>19 A. The one I recall I was in -- I</p> <p>20 believe it was almost a year ago today, it was</p> <p>21 December 15th, because I've seen the memo on</p> <p>22 this in preparation for the deposition.</p> <p>23 December 15th, 2008 was the meeting I'm</p> <p>24 remembering.</p> <p>25 Q. Okay. And what was the meeting</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 about?</p> <p>3 A. Generally about the sale</p> <p>4 transaction and -- you know, the context was</p> <p>5 helping us to perform some due diligence to</p> <p>6 determine how we should react to the</p> <p>7 settlement motion that was pending at that</p> <p>8 point before the court that I'm sure we're all</p> <p>9 well aware of.</p> <p>10 Q. Do you recall the upshot of that</p> <p>11 discussion?</p> <p>12 MR. TAMBE: Objection to the form</p> <p>13 of the question.</p> <p>14 A. I don't know if I'd characterize</p> <p>15 that upshot. I mean, I recall generally what</p> <p>16 we were talking about but I don't -- I</p> <p>17 wouldn't characterize anything as a particular</p> <p>18 upshot.</p> <p>19 Q. Turning back to this document and</p> <p>20 particularly page 28, the 43.1 billion repo</p> <p>21 assets, do you understand where that number</p> <p>22 comes from and what it represents?</p> <p>23 A. I believe it comes from a data --</p> <p>24 a collection of data we had received from</p> <p>25 former Lehman people, current -- at this point</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 they would have been Barclays employees when</p> <p>3 we had requested, again as stated before,</p> <p>4 the -- you know, the data that supported the</p> <p>5 individual securities transferred in the sale.</p> <p>6 Q. Is it your understanding the 43</p> <p>7 billion repo assets was a valuation of all of</p> <p>8 the fed repo collateral?</p> <p>9 A. To the best of my recollection, it</p> <p>10 was, yes.</p> <p>11 Q. Are you aware that there were --</p> <p>12 A. Oh, I'm sorry. I should back up.</p> <p>13 All the fed repo collateral I think as we're</p> <p>14 all probably aware, there was the issue of</p> <p>15 certain securities not making its way to</p> <p>16 Barclays immediately upon closing of the sale.</p> <p>17 And that's roughly a 7 -- it's a \$7 billion</p> <p>18 figure that's referred to throughout the</p> <p>19 course of the discovery in this matter, but I</p> <p>20 should caveat my answer to clarify that I know</p> <p>21 now that that was not included. I don't know</p> <p>22 that we appreciated that fully at the time.</p> <p>23 Q. Okay. We'll refer to that as the</p> <p>24 \$7 billion and put aside whether that's the</p> <p>25 actual value of the securities or nominal</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 value or anything like that. Just so we can</p> <p>3 understand each other.</p> <p>4 A. Sure.</p> <p>5 Q. So if you add -- would you then</p> <p>6 add \$7 billion to the 43.1 in order to get the</p> <p>7 stale marks that's referred to there?</p> <p>8 MR. TAMBE: Objection to the form</p> <p>9 of the question.</p> <p>10 A. If you're asking me today would I</p> <p>11 add the 7 billion to determine the full</p> <p>12 ascribed value of what was transferred today</p> <p>13 I'd say yes. I'm not sure we had that</p> <p>14 understanding at this time.</p> <p>15 Q. Okay. Well, can you think of any</p> <p>16 other way that 43.1 would have been derived</p> <p>17 other than taking some stale marks and</p> <p>18 subtracting out the 7 billion?</p> <p>19 MR. TAMBE: Objection to the form</p> <p>20 of the question.</p> <p>21 A. As I think I stated earlier, I</p> <p>22 believe the 43.1 billion was derived through</p> <p>23 an individual listing of CUSIP by CUSIP of the</p> <p>24 assets that were determined to have been</p> <p>25 transferred at that point.</p>

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2 Q. Do you know when those marks were
3 marked? They're being referred as to stale.
4 I just don't know -- do you have knowledge of
5 whether those marks were updated as of since
6 September 12th, 2008?

7 MR. TAMBE: Objection to the form.

8 A. Since the data was delivered to us
9 through what people are currently Barclays
10 employees, I think they would have the best
11 understanding of what specifically those
12 numbers were and what they were based on.

13 Q. I understand that. But I'm just
14 asking what you know. We can ask them
15 separately. It says stale marks. I'm just
16 treating to think are the stale marks the ones
17 that are, you know, five days old, three days,
18 old, go back to September 12th? I mean, do
19 you know?

20 A. I generally -- my current
21 understanding is that the values ascribed at
22 this time, that was the value that the entity
23 as a whole was ascribing to these securities
24 at the time the deal was closed. I don't know
25 that I accept the characterization of them

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2 and keep the marks current. And there was
3 also the ongoing contemporaneous marking
4 process that was done by their clearing bank.

5 Q. And that's based on Ian Lowitt's
6 deposition testimony?

7 MR. TAMBE: Objection to form.

8 A. I don't think it's based solely on
9 that. It's based on an aggregation of my
10 understanding.

11 Q. Is it just the aggregation we
12 talked about earlier in the deposition?

13 A. It's based on a -- you know, a
14 series of -- the information I've gathered and
15 absorbed in the course of being involved in
16 this matter.

17 Q. Is there anything else specific --
18 I mean, can you -- you read the deposition
19 testimony. You've read, you know, the motion
20 paper -- the litigation papers.

21 Have you talked to someone who
22 said they were updating their marks that week
23 at Lehman?

24 A. Again, I'm aware that the clearing
25 banks, JPM was doing contemporaneous marks.

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2 being stale marks based on what I know now.
3 At the time we obviously had a belief or an
4 understanding that they were thought to be
5 stale marks.

6 Q. And have you learned since then
7 that -- I mean, do you know whether those
8 people -- whether those marks were updated
9 through the week of September 15th?

10 MR. TAMBE: Objection to the form
11 question.

12 Q. And the way you phrased it was it
13 was continued to be the value, understanding
14 that the values ascribed at this time. It's a
15 little more specific. Do you know -- I think
16 you've said you don't know earlier but do you
17 know whether these marks were updated through
18 the week -- by someone at Lehman through the
19 week of September 15th?

20 MR. TAMBE: Objection. Asked and
21 answered.

22 A. Yeah, I think I'd refer back to
23 what I believe I testified to a few moments
24 which is I had a general understanding that
25 they were attempting to do business as usual

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2 That's their responsibility as the clearing
3 agent. Bank of New York who was -- these
4 securities were being transferred to was doing
5 their own independent valuation or ascribing
6 their own independent values to it. There
7 were -- you know, there wasn't just one source
8 of value during this week.

9 Q. I'm asking about Lehman. Other
10 than Lowitt's, Mr. Lowitt's testimony, do you
11 have any knowledge that Lehman was updating
12 these marks during the week?

13 MR. TAMBE: Objection, asked and
14 answered.

15 A. I believe it was asked and
16 answered. And I believe they were attempting
17 to continue to mark the books on a daily
18 basis.

19 Q. And that belief is based on what
20 other than Mr. Lowitt's testimony? And they
21 being Lehman. So not BNY or JPM or the
22 clearing or anything else.

23 A. I can't tell you specifically the
24 single item or the series of items that lead
25 me to believe that that was the case. It's

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quite possible if I go back and review material I'll be convinced otherwise. But sitting here today it's my general understanding that the marks were being updated by Lehman continuing on a daily basis.

Q. Did you see Mr. McDade's testimony that he didn't believe that they were being updated?

A. I do recall seeing that testimony, yes.

Q. Okay. So we have Mr. McDade testifying that he believed they weren't being updated. We have Mr. Lowitt's testimony. Is there anything else specific that anyone at Lehman has told you or that you'd gone and looked at the documents to confirm that marks were being updated?

MR. TAMBE: Objection. Asked and answered.

A. Again, general recollection, we may have gotten data even out of the Lehman GFS system since we began our work. But I have a general understanding that the marks were being updated daily.

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As to the -- you know, the distinction between Mr. McDade's testimony and Mr. Lowitt's, I'm aware of the contradiction there. If I were to choose between the CFO who is closer to the marking process on a daily basis than a chief operating officer which I believe was Mr. McDade's title I'd probably take the CFO in that context.

Q. I really want to move on. I just want to be very specific. I just need to know if there's some other specific basis you have for believing there were marks being updated by Lehman that week other than Mr. Lowitt's testimony. Because if there's some other basis I've just got to know. I'll keep asking it until you answer it.

A. I will refer to my prior testimony.

MR. TAMBE: Objection. You've asked him this any number of times. He's answered any number of times.

MR. THOMAS: The answer is non-responsive. The answer is I have a general belief and so forth so --

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MR. TAMBE: He's given you his answer. And he's mentioned the GFS data now. So what else do you want him to talk about? He's told you the bases for his understanding.

MR. THOMAS: I want to make sure we close that out.

BY MR. THOMAS:

Q. So at this time, the time of this document, at the time you were making your presentation to the Creditors Committee, is it fair to say that Alvarez believed the Lehman marks were stale?

MR. TAMBE: Objection to the form of the question.

A. No. I don't think that's a fair characterization. I think this was the recitation of something that was communicated to us. I don't think we were making a qualitative assessment that it was accurate or inaccurate. We were simply communicating information to a key constituent of ours.

Q. Do you know who communicated that to Alvarez?

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A. I don't know specifically because I didn't get a chance to get a hold of Jim Fogarty in the last couple of days. He would be the better person to ask. But I infer from the documents I've seen Ian Lowitt or somebody that worked with Ian Lowitt.

Q. Okay. You're aware that --

A. I'm sorry. Did I say Ian Lowitt?

Q. Yes.

A. I believe it was Paolo Tonucci.

Q. You're aware that Barclays did not believe that the marks of the repo collateral were still accurate as of the time of closing, correct?

A. I'm sorry. Am I aware sitting here today that Barclays doesn't believe those marks were accurate?

Q. Right.

A. I understand that is an assertion, yes.

Q. Okay. In any event, Alvarez understood and communicated to the Committee that there was a difference in the value of the repo assets ascribed for purposes of the

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2 sales transaction and -- between that and
3 the -- what's referred to here as the stale
4 marks. The nominal marks on the fed repo
5 collateral.

6 MR. TAMBE: Objection to the form
7 of the question.

8 A. Sorry. I lost the train of that
9 question. Could you repeat it?

10 Q. Okay. Alvarez understood and
11 conveyed to the Committee at this time that
12 there was a difference between the Lehman
13 marks and the -- of the repo collateral and
14 the value of the repo collateral ascribed to
15 the repo collateral for purposes of the sale
16 transaction by the parties.

17 MR. TAMBE: Object to the form of
18 that question.

19 A. I think we've gone over this. You
20 know, I think the words communicate that
21 concept. I'm not necessarily agreeing that we
22 accepted it at the time as being -- you know,
23 I take this as Jim was relaying information
24 that we had come to understand through others
25 at that point. I don't think we were making a

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2 qualitative judgment at that point that it's
3 right, wrong, or otherwise.

4 Q. Well, putting aside whether it's
5 correct or not, that's what was being
6 conveyed, though; that there was this
7 difference between the old Lehman marks and
8 the parties' valuation of the repo collateral
9 for purposes of the sale transaction. That's
10 what the reduction is referring to, correct?

11 MR. TAMBE: Object to the form of
12 the question.

13 A. If I understand that correctly
14 that's probably a fair characterization.

15 Q. Okay. Let me ask it open ended.
16 What is the reduction that's -- the \$5 billion
17 reduction referring to there?

18 A. What is it referring to?

19 Q. Yes.

20 A. Well, it's referring to apparently
21 a negotiated difference between the value
22 which the assets were acquired versus the way
23 they were characterized prior to the
24 transaction.

25 Q. And Alvarez would have tried to

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2 make its presentation to the Creditors
3 Committee as accurate as it could, correct?

4 A. Yeah. We were certainly trying to
5 convey accurate information to the committee.

6 Q. And Alvarez also understood that
7 the -- if you look at the next bullet point --
8 that the sale transaction conveyed to Barclays
9 the unencumbered box?

10 A. Yes.

11 Q. And is the unencumbered box
12 referring to the clearance box assets?

13 MR. TAMBE: Object to the form.
14 Go ahead.

15 A. Is unencumbered box relating to
16 the -- unencumbered box I think refers to
17 unencumbered collateral that was transferred
18 that wasn't -- that didn't have a lien on it
19 prior to the transaction.

20 Q. Would you take a look back at the
21 clarification letter, please.

22 A. (Witness complies.)

23 Q. And if you would look at
24 Section -- paragraph 1(a)(ii)(B).

25 A. Yes.

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2 Q. Do you understand that to be
3 referring to what's being referred to in the
4 Alvarez presentation as the unencumbered box?

5 A. Yes. Sitting here today I would
6 make that connection.

7 Q. Okay. So, I mean, as of the time
8 of the presentation Alvarez's understanding
9 was that the sale transaction, specifically
10 the clarification letter, did convey the
11 unencumbered box to Barclays and that that was
12 worth approximately \$1.9 billion?

13 MR. TAMBE: Objection to the form
14 of the question.

15 A. Our understanding at the time was
16 being conveyed here, yes, that that was
17 transferred.

18 Q. Okay. Did that understanding ever
19 change in terms of the conveyance of
20 1.9 billion unencumbered box?

21 A. I'm generally aware that there are
22 disputes perhaps between the SIPA trustee and
23 Barclays on this opinion. I may have this
24 mixed up with other categories of securities
25 or assets that were transferred but accepting

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that there may be disputes on that as we sit here today I would answer that, you know, that at the time we were communicating that this was an un -- collateral that was sitting in an unencumbered box at the time it was transferred.

Q. So Alvarez's understanding didn't change with respect to that. I understand there may be -- with another party there may be some dispute or whatever, but in terms of Alvarez's understanding of that did that change at any point in time that this was being conveyed?

A. If I'm not mistaken I thought this was depicting what was physically transferred at that point. So I'm not sure that has changed assuming that is the case. If it was physically transferred, it was transferred. If there are items in dispute currently I'm not certain of the details of that as I sit here.

Q. Was it Alvarez's understanding based upon the term of the clarification letter we just read that these -- this

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1.9 billion was, in fact, being conveyed as part of the sale transaction?

MR. ROTHMAN: Objection to form.

A. Well, again, I draw the connection between the words here in this section you drew me to and the unencumbered box. I assume that is correlated here.

Q. The fourth bullet point refers to .8 billion 15(c)(3)-3 securities.

Do you see that?

A. Yes.

Q. And Alvarez understood that that also was being conveyed as part of the sale transaction.

A. Yes. That's what we were communicating here in terms of our understanding at that point.

Q. Yeah. And the topic of this is not what's being conveyed. It's asset purchased, correct?

A. Yeah. That's how it's depicted, yes.

Q. So your understanding is you're just briefing the Creditors Committee on the

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assets that were purchased as part of the sales transaction; is that correct?

A. That's probably a fair characterization.

Q. And then under Liabilities Assumed -- by the way, did anyone -- do you recall anyone at the Creditors Committee raising any questions concerning any of these items in terms of the assets purchased listed here?

A. Well, again, I wasn't in the room at the time this was communicated. So I can't answer that.

Q. Whether you were there personally, are you aware of any Creditors Committee at any point raising questions about whether these assets were purchased or --

MR. TAMBE: Objection to the form of the question.

A. Sitting here today, I'm not aware, no.

Q. Okay.

A. I'm not aware one way or the other, just to clarify.

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Q. Are you aware of any communications between Alvarez and the trustee concerning the three bullet points we looked -- we just discussed?

A. Between Alvarez and the SIPA Trustee.

Q. Yeah. Alvarez and the SIPA Trustee or the trustee's representatives and the fact that -- and the first, second, and third -- first, second and fourth bullet points under the assets purchased?

A. I'm sorry. Am I aware of any communications between Alvarez & Marsal and the SIPA Trustee on these three bullet points?

Q. Yes. And by bullet points I mean the topics in the bullet points.

Let me just rephrase it.

Are you aware of any conversations between Alvarez and the SIPA Trustee or the trustee's representatives and the \$1.9 billion unencumbered box?

MR. TAMBE: Object to the form of the question.

A. No. And I can probably

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2 from Barclays personnel. I don't think we had
3 an independent basis for knowing what that
4 number was.

5 Q. When you say Barclays -- I'm
6 sorry. When you say Barclays personnel do you
7 mean Lehman's -- former Lehman personnel --

8 A. Former Lehman personnel.
9 The communications I've seen
10 around this kind of information indicated that
11 we were attempting to meet with people like
12 Paolo Tonucci, Dan Fleming at the time. So
13 I'm presuming that somebody like that would
14 have provided this information.

15 Q. Would you have -- at this point in
16 time would Alvarez had had a copy of the
17 purchase agreement?

18 A. I don't know. We weren't
19 attempting at this time to do a comprehensive
20 evaluation of the deal. We were just
21 attempting really to lock down the information
22 as to what got transferred in the deal. This
23 wasn't done for the purpose of a full-blown
24 holistic analysis of the deal and the
25 economics of it. We were focused on many

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2 other things at that point in time and this
3 was not in any way a priority.

4 Q. Are you aware that the -- that
5 Barclays was not obligated to actually assume
6 any particular contracts under the sale
7 transaction?

8 MR. TAMBE: Objection to the form
9 of the question.

10 A. Well, sitting here today, I'm
11 aware of -- they had options as to which
12 contracts they would assume and not assume.

13 THE VIDEOGRAPHER: The time is
14 12:27. We're going off the record.
15 (Videotape changed.)

16 THE VIDEOGRAPHER: The time is
17 12:27. We are back on the record.

18 BY MR. THOMAS:

19 Q. What's your understanding of what
20 this page represents?

21 A. I believe it's a summary of data
22 that we were -- had obtained around this time
23 from former Lehman people. And it's depicting
24 the various categories of securities and the
25 amount at which they were deemed to be

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2 transferred at -- or the value at which -- in
3 the data set that was relayed to us.

4 Q. And do you know whether these --
5 specifically where these values came from?
6 Was it --

7 A. Specifically, no.

8 Q. The last -- near the bottom there
9 it says, "Less Friday 9/19 transfers."

10 And then it has a negative entry
11 of a little over a billion dollars. Do you
12 know what that's referring to?

13 A. Not specifically. I could make an
14 inference but --

15 Q. What's your inference?

16 A. That the amount of the securities
17 that was not -- not transferred by virtue of
18 activity that occurred on Friday, the 19th.
19 They weren't available for transfer for
20 whatever reason and that's how I would infer
21 that item.

22 Q. Okay.

23 MR. THOMAS: Why don't we go ahead
24 and take our lunch break if that works
25 for everyone.

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2 MR. TAMBE: 45 minutes, an hour?

3 MR. THOMAS: Why don't we do 45
4 minutes.

5 THE VIDEOGRAPHER: The time is
6 12:29. We're going off the record.

7 (Luncheon recess taken at 12:39
8 p.m.)
9

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AFTERNOON SESSION
(Time noted: 1:27 p.m.)
THE VIDEOGRAPHER: The time is
1:27. We are back on the record.

PHILIP KRUSE, resumed and
testified as follows:
EXAMINATION BY (Cont'd.)
MR. THOMAS:

Q. Mr. Kruse, let me ask you to
please go back to Exhibit 461A which is the
presentation to the Creditors Committee.

A. (Witness complies.)

Q. And, again, at page 28 I believe
you indicated that as part of your preparation
for your testimony today, you went back and
reviewed the Rule 60 motions. Would that
include LBHI's Rule 60 motion?

A. Yes.

Q. And you recall there being a
discount talked about in that motion.

A. Yes.

Q. Is that the same discount that's
referred to on page 28, the \$5 billion

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reduction?

MR. TAMBE: Object to the form of
the question.

A. I believe it applies to the same
pool of securities.

Q. Is it different in any way?

MR. TAMBE: Objection to the form
of the question.

A. Well, no. Again, because it
applies to the same group of securities, the
repo collateral, I think it is the same
concept being communicated.

Q. Okay. And that concept is that
there was agreement to value the securities at
approximately \$5 billion less than the Lehman
marks?

A. Well --

MR. TAMBE: Objection -- okay.
Objection to the form of the question.

A. We've spoken about what this
communicates and how I infer what this was
communicating. This talks about stale marks
and negotiated a \$5 billion reduction from the
marks that were on Lehman's books. The

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discount, it's characterized probably
differently in the Rule 60 motion and in the
other material we gathered in the course of
discovery. But I think it's the same concept
at play if that's your question.

Q. Right. It's the same difference
in values at play.

A. The same \$5 billion, yes.

Q. LBHI understood as of the time of
closing that the purchase agreement was
transferring the exchange-traded derivatives
to Barclays, correct?

A. You're asking LBHI's
understanding.

Q. Yeah.

A. I would presume LBHI understood
that. At the time of the closing, yes.

Q. Right. And that's your
understanding of what the purchase agreement
says, correct?

A. The clarification letter, I
believe, is where that comes up. If I'm not
mistaken.

Q. You understand the purchase

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agreement to include the clarification letter?

MR. TAMBE: Objection to the form
of the question.

A. Yeah. I'll accept that as a way
to talk about it.

Q. Did Alvarez ever seek to value the
exchange-traded derivatives that were
transferred to Barclays as part of the deal?

A. Any work, again, we've done on
the -- in the area of valuation of the assets
transferred is subject to work we've been done
under direction of counsel.

Q. Okay. Other than work you're
describing as work being done under direction
of counsel for purposes of litigation, did
Alvarez ever seek to put a value on the
exchange-traded collateral -- exchange-traded
derivatives?

MR. TAMBE: Objection to the form
of the question.

A. No. Alvarez, to my knowledge,
other than in connection with the work with
Jones Day has not.

Q. Are you aware of whether LBHI has

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2 done so?

3 A. LBHI since the closing, I would
4 say no. Because, you know, we are essentially
5 LBHI in a way of thinking.

6 Q. And other than the work being done
7 with Jones Day, are you aware of anyone else
8 attempting to put a value on the derivatives?

9 A. Not to my knowledge.

10 Q. Let me show you a document we'll
11 go ahead and mark as 463A.

12 (Deposition Exhibit 463A, document
13 bearing production numbers WGM-LEHMAN-E
14 00005853 through WGM-LEHMAN-E 00005866,
15 marked for identification as of this
16 date.)

17 BY MR. THOMAS:

18 Q. Is this a document you've seen
19 before?

20 A. Yes. I believe I have.

21 Q. And when is the first time you saw
22 it?

23 A. The first time that I recall is in
24 connection with my preparation for this
25 deposition.

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2 MR. TAMBE: Objection to form.

3 A. My presumption would be Jack and
4 Daniel were heading up specific asset teams
5 and were trying to get their bearings on what
6 the estate owned and didn't own and this
7 presumably would have been sent in the context
8 of them getting their bearings on that
9 subject.

10 Q. And as part of that analysis and
11 work I think you mentioned Alvarez may have
12 spoken with former Lehman people who had gone
13 over in the transaction to Barclays. But I
14 assume that's not all that Alvarez did. They
15 also spoke with Weil, for example, and tried
16 to gather information to make a complete
17 analysis as possible. Is that fair enough?

18 A. I'm sure that was happening, yes.

19 Q. If you would turn the page,
20 please.

21 A. (Witness complies.)

22 Q. Under Purchased Assets, and the
23 first bullet point under Securities and
24 Trading Operations. And let me just back up
25 under Purchased Assets. It says At closing

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2 Q. Very recently.

3 A. Yes.

4 Q. Do you know one way or another if
5 you saw it earlier?

6 A. To my knowledge, I did not.

7 Q. You recognize that as an e-mail
8 from Glenn West at Weil Gotshal dated
9 September 27th, 2008?

10 A. Yes.

11 Q. And it goes to, among others, Jay
12 McCarthy. Who is that?

13 A. That would probably -- that would
14 be Jack McCarthy.

15 Q. And he works at Alvarez?

16 A. Yes.

17 Q. And D. Ehrmann also with Alvarez?

18 A. Yes.

19 Q. And the subject description is,
20 "Here is all we have at the moment that makes
21 an effort to describe what Barclays got and
22 didn't get."

23 Why was Weil sending you this
24 information -- sending Alvarez this
25 information at this time?

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2 Barclay acquired all purchased assets. And
3 then down below it says The securities set
4 forth on Schedule A to the clarification
5 letter, i.e., the securities subject to the
6 Barclays repurchase agreement.

7 Do you understand that as just
8 listing all the -- or referring to the fed
9 repo collateral?

10 A. Yes.

11 Q. And was that consistent with
12 Alvarez's understanding at the time that as
13 part of the deal Barclays was to receive all
14 the fed repo collateral?

15 A. I think Alvarez would have been
16 gaining that understanding concurrent with an
17 e-mail like this. I think we were focused on
18 it prior to closing.

19 Q. Okay. Did Alvarez ever form any
20 inconsistent -- strike that.

21 Looking at the next bullet point
22 where it says, "The securities and other
23 assets held in LBI's clearance boxes as of the
24 time of the closing."

25 Do you see that?

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A. Yes.

Q. And do you understand Schedule B to the clarification letter basically listing the clearance box assets that were being transferred to Barclays as part of the purchase agreement?

A. That's my understanding, yes.

Q. Okay. And turning the page, the next bullet point where it says, "All exchange traded derivatives and any property that might be held to security obligations under such derivative," do you see that point?

A. Yes.

Q. And is that consistent with what I believe was your earlier testimony that you understood that the purchase agreement transferred to Barclays all exchange-traded derivatives?

MR. TAMBE: Objection to the form of the question.

A. Yeah. I think that was part of my earlier testimony.

Q. And that was -- that was Alvarez's understanding of the deal at this time?

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A. At this time, yes. Our understanding would have been gained through things like this.

Q. Okay. At any point did your understanding of the deal with respect to those three items change? Your being Alvarez's?

A. With respect to those three items I have no knowledge that our understanding changed.

Q. If you would turn a couple more pages to Bates stamp 5857 or page 4 of the document.

A. (Witness complies.)

Q. And if you want to flip back to the prior page you're welcome to. It's -- that bullet point at the top of page 4 is under something entitled Customer Accounts.

A. Um-hum.

Q. Okay. And we're still under the big heading of Purchased Assets.

And this bullet point at the top of 4 says, "Purchaser shall receive for the account of customer any and all property of

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any customer including any held by or on behalf of LBI to secure the obligations of any customer whose accounts are being transferred to purchaser as part of the business and to the extent permitted by applicable law and as soon as practicable after the closing, 769 million of securities as held by or on behalf of LBI on the date hereof pursuant to rule 15(c)(3)-3 of the Securities and Exchange Act of 1934 as amended or securities of substantially the same nature and value."

Was Alvarez's understanding that as part of the purchase agreement Barclays was to receive \$769 million of the 15(c)(3) securities or if that wasn't allowed by law, other securities of the same nature and value?

A. Well, the document as provided to us by Weil Gotshal I think speaks for itself on that point. I just want to clarify I'm aware now that this is a subject of dispute between LBI and Barclays and I'm not in a position to opine or offer any insight on that.

Q. Right. I guess the question,

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though, is was that Alvarez's understanding at the time that Barclays was entitled to either the 769 million of the 15(c)(3) securities if permitted by law or if not permitted by law securities of substantially the same nature and value?

A. I'm not even sure I would go that far. In the context of what we were trying to accomplish at this time, you know, the intricacies of customer property and things that were probably under the purview at that time of LBI wouldn't have been a particular focus of ours. Obviously, it's here in the document that was provided to us. The degree to which Alvarez & Marsal focused on this or really thought about it or considered it, I wouldn't presume anything beyond that it's here on the document.

Q. Is it your understanding at least that that's what Weil was telling you was part of the deal?

A. Well, I think the document speaks for itself in terms of where it came from and what it says.

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Q. So as part of its -- about how many people at Alvarez were working on this effort to try to assess the transfers, the deal, during this period of time?

MR. TAMBE: Objection to the form of the question.

A. Difficult for me to characterize numbers of people. It was a substantial part of our effort at that point. I think as it relates to Barclays in particular, our focus was on, you know, bearing in mind, of course, that the business and all of its systems, its records, all of its systems, and substantially all of its employees were being moved over to Barclays. The TSA, the Transition Services Agreement, was the primary focus of ours as it related to Barclays at the time. And so the numbers of people -- there's within this October 8th dec I think there's some depiction of the numbers of people that we were gearing up with at that time. But a substantial portion of those people were involved in this effort across multiple asset classes and multiple teams that I think is probably best

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way, that was our focus.

Q. Did anyone at the Committee express any surprise that there was a difference between the agreed value of the marks as part of the transaction and some prior Lehman marks?

MR. TAMBE: Objection to form.

A. At this meeting? I think I covered that.

Q. At the meeting -- okay. Let's try it without the meeting.

A. I was not at the meeting so I can't offer any insight.

Q. You tricked me.

Okay. At any time to your knowledge.

A. Just to clarify, I was not at any part of the meeting so I can't offer any insight.

Q. At any time, to your knowledge.

A. At any time did -- I'm sorry. I just want to make sure I got your question straight. I've lost track.

Q. At any time did anyone, to your

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portrayed in this document at that time as opposed to me trying to recite that for you.

Q. When Alvarez became aware of the discount that we discussed and was in the presentation to the Creditors Committee, did Alvarez take any action or do anything with respect to the fact that there was a discount or a difference between the agreed value of the repo collateral and certain marks?

MR. TAMBE: Objection to the form.

A. No, again, I would characterize, you know, what we were doing at this time relaying information that had been given to us in connection with that transaction to our UCC constituency. Some aspects of which they may have known more than we did at the time because they had perhaps people involved as the deal was happening that weekend whereas we did not. Did we take action? This was not a priority at the time. We were not -- again, as it relates to Barclays, the TSA was our primary focus. Getting ourselves in a position where we could run the wind-down of this enormously large operation in a competent

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knowledge, from the Committee express, you know, surprise about the fact that there was a difference in the value of the fed repo collateral agreed to by the parties for purposes of the deal and the -- some nominal prior Lehman marks?

MR. TAMBE: Objection to form.

A. You mean people sitting on the Committee? I didn't have a lot of communication with people sitting on the Committee.

Q. That may be so but are you aware of anyone on the Committee expressing surprise about the fact that there was this delta?

A. Not that I'm aware. Again, there may have been communications I'm not aware of.

Q. Are you aware of anyone else who expressed surprise or indicated that that was news to them? Anyone at Alvarez or LBHI or anyone at this period of time?

MR. TAMBE: Objection to form.

A. My recollection during the first quarter of our administration of the estate, there was a gentleman from Houlihan, I believe

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Mike Fazio, who I think primarily indirectly through others I understood that he was expressing some concerns about the economics of the deal and whether it was ultimately in the best interest of the estate to have the deal done as it was papered. I -- you know.

Q. Can you think of anything else other than that?

A. Not that I recall.

Q. Was Mr. Fazio's expression of concern more general or particularly with respect to there being a delta between the agreed value of the -- we'll call it the discount as you've used the term.

A. My best recollection is that Mr. Fazio was either -- attended or had heard firsthand about a meeting that I know has been depicted in the prior discovery Sun -- I believe it was Sunday night before the deal was closed Monday morning, where -- and I was in the deposition of Michael Klein who acknowledged that he had a depiction of the -- a very high-level depiction of the deal that was written on the back of a manila envelope

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that was shown to Mike and/or others at Houlihan.

I remember Mike telling us that they, meaning as advisors to the Unsecured Creditors Committee, had been asked -- had asked Barclays and Lehman people for the details behind the difference between the marked values and what was determined to be the negotiated value as depicted on that envelope. And they were very unhappy with the fact that they had never gotten any details. They were promised the details at the time and they never got them. And I think that was part of what was underlying their concerns about the economics of the deal.

Q. So they were aware of the delta but they wanted to get details about the delta further explained.

A. Sure. If you're a fiduciary for the estate and you're aware of that you'd like to have empirical knowledge, empirical evidence of how it was derived rather than just, you know, somebody saying it was negotiated.

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Q. The sale transaction didn't require the deal to be a wash, did it?

MR. TAMBE: Objection to form of the question.

A. The sale transaction didn't require the deal to be a wash?

Q. Okay. I'll rephrase that. Are you familiar with the term "wash"?

A. Yes.

Q. What does that term mean to you?

A. Well, in the context I know where you're coming from, it's assets essentially equalled liabilities. And there was little to no exchange of economic value in the deal.

Q. Okay. And little to no exchange of economic value, can you explain to me?

A. Yeah. Wash assets equal liabilities, that's how I'm trying to give my understanding of what that concept means.

Q. It was never your understanding there was something that sale transaction documents required that assets match liabilities; is that correct?

A. I don't think it was ever --

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MR. TAMBE: Objection to form of the question.

A. I don't have any basis to think it was characterized as -- in that way in the sale documents. Although I would point out that the Asset Purchase Agreement dated October 16th, and I think this is depicted in our Rule 60 papers, it really does -- the end result of that appears to be assets equal liabilities as it relates to the securities and the comp and cure obligations being assumed. And then you've got an additional element of consideration if you want to look at it that way by virtue of, you know, other liabilities being assumed.

Q. Have you done an analysis of the initial Asset Purchase Agreement to determine what the actual liabilities would have been and what the assets would have been?

A. Well, what I'm describing I think is depicted in our Rule 60(b) motion. I can picture it now. There's a little table in the motion that depicts \$70 billion of long positions, 69 billion of short positions,

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\$250 million acquisition price, and a \$750 million profit participation, if you will, in the upside of the securities if they were sold for more than the negotiated price.

Q. Do you know whether the 70 billion long includes residential mortgages valued at 50 percent of which valued at 3 billion?

A. My best recollection may not be completely accurate, is that the -- half of the mortgage securities were excluded assets, if I'm not mistaken, as depicted in the APA.

Q. Okay. But the 70 billion didn't include the 3 billion, 50 percent of the REST's, correct?

A. That's my recollection, yes.

Q. Were you aware that Barclays had put out a press release before the deal closed saying that it was going to be accretive, the deal was going to be accretive for Barclays?

MR. TAMBE: Objection to the form of the question.

A. I first saw that press release in roughly Oct -- excuse me -- January of this year.

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Q. So Alvarez now is working on trying to value some of the assets for purposes of this litigation. Without getting into the results of that because your counsel has said that that's privileged, how long has Alvarez been doing that work?

MR. TAMBE: Objection to form of the question, and to your characterization that Alvarez is now working on trying to value some of the assets. What they're doing at the direction of counsel and how far they've come along and how much of it they've done, all of that is within the privilege.

MR. THOMAS: Okay. But not the dates.

Q. I mean, when did Alvarez start working on the general subject of valuing assets related to the sale transaction? Just the date. Rough date.

A. Sometime after Jones Day was engaged the best I recall.

Q. And -- March?

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A. We were engaged in March. I can't give you a specific date of when that activity --

Q. Is it still continuing?

MR. TAMBE: Again, I'd object to that and instruct you not to answer in terms of what you are doing, may have done, whether you're still doing it.

MR. THOMAS: Okay. Yeah, I mean, I disagree but I don't want to belabor it. You've got your instruction and I assume you're going to follow it.

Q. Can you tell me roughly how much time Alvarez spent on trying to value assets?

A. No, I can't.

Q. Was it -- I mean, just order of magnitude was it a one-week thing or two-month thing?

MR. TAMBE: Objection to the form of the question.

A. I have no characterization of it.

Q. So prior to that work -- so prior to March 2009 Alvarez never made any effort to go back and value any of the assets or

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liabilities that were part of the sales transaction; is that correct?

MR. TAMBE: Objection to the form of the question.

A. I don't know if I -- I don't think I'd accept that characterization if I understand it. You mentioned their both assets and liabilities. Our initial concerns about the economics of the deal actually were generated as a result of us closing the books as of the closing date -- excuse me -- as of the date of the bankruptcy closing the books and records on behalf of the LBHI estate and coming to some realization that the liabilities that were on the books for comp and call it cure kind of liabilities appear to be much lower than the amounts that were presumed to be the effective liabilities in the deal. So it was the liability side that really started our concerns.

Q. When was that?

A. Toward the end of December 2008.

Q. And what did you do as a result of those concerns?

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A. Well, what I did is I took direction from Brian Marsal and started a forensic team that was focused on the Barclays sale.

Q. And did you -- what was the result of that forensic team's work?

A. Well, as is probably obvious we recognized we needed legal counsel and engaged Jones Day in or about March of this year. And the end result of our joint effort in this process is evident in the Rule 60(b) motion.

Q. So we'll pick up on that in a minute but prior to March did Alvarez ever make any effort to try to value the assets transferred as part of the sale transaction?

A. There were probably analytical kind of exercises to evaluate the value of the assets. It was a preliminary, you know, sort of attempt to look at it. Obviously, by that time in early February as everybody knows Barclays had its annual earnings announcement which put sort of a spotlight on the idea that there was a very substantial gain on acquisition that gave us concern as to the

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ultimate economics of the deal. So we looked at that gain disclosure. We looked at, you know, tried to make sense out of it. Where was the gain derived, et cetera.

Q. And can you tell me anything about the results of your evaluation work prior to March in terms of what -- the amounts you came up with for any class of asset?

MR. TAMBE: By this point in time the work that was being done by Alvarez & Marsal is in anticipation potentially of litigation and claims and we have asserted work product privilege on any of that analysis that was done by A&M.

MR. THOMAS: Can you tell me as to what time?

MR. TAMBE: I think it would probably go back to the January time frame when they started looking at it from a forensic perspective as opposed to merely collecting assets and identifying assets which is what they were doing in the first quarter of their engagement when this becomes more of an

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anticipation of litigation or an anticipation of bringing claims exercise.

BY MR. THOMAS:

Q. And the assets that prompted this exercise on the books were the comp and cure amounts; is that correct?

A. Well, I guess I'd characterize it differently. Comp and cure are liabilities.

Q. I'm sorry. I misspoke. Liabilities.

A. Yes. My best recollection is that the initial concerns that arose on our part, on A&M's part, emanated from the liabilities side, an apparent overstatement of the liabilities. That's my best recollection.

Q. Let me show you another document we'll mark as 464A.

(Deposition Exhibit 464A, document bearing production numbers AM 002287 through AM 002292, marked for identification as of this date.)

BY MR. THOMAS:

Q. Before I ask you about this

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document, in your view would it have been possible to accurately value all of the assets transferred as part of the purchase agreement by the time of closing given the short period of time in the negotiation of the deal?

MR. TAMBE: Objection to the form of the question. Beyond the scope of the 30(b)(6).

A. I would almost reply that they were valued. There were values being ascribed at that time that depicted the value, for example, of the repo assets being approximately \$49.9 billion.

Q. Well, for example, the RESI's you mentioned were valued at \$6 billion. Do you think they were really worth \$6 billion?

MR. TAMBE: Objection to the form of the question.

A. I don't know which particular securities you're referring to. There's been a lot of confusion in my mind about what constitutes those RESI's. If you're referring to the RESI's that are referenced in the APA.

Q. Right. I mean, do you think those

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 could be easily valued during the week of the</p> <p>3 deal?</p> <p>4 MR. TAMBE: Objection to the form</p> <p>5 of the question and beyond the scope of</p> <p>6 the 30(b)(6).</p> <p>7 A. As I mentioned, I have a lot of</p> <p>8 uncertainty as to what securities are even</p> <p>9 being referred to there. So it's a</p> <p>10 difficult -- I can't even answer the question</p> <p>11 because I don't have a premise from which to</p> <p>12 answer.</p> <p>13 Q. So you weren't even sure which</p> <p>14 securities were in the deal.</p> <p>15 A. It's not clear to me, no. And</p> <p>16 when I say in the deal, I'm talking about the</p> <p>17 RESI assets referred to in the APA.</p> <p>18 Q. All right. Turning to 464A who is</p> <p>19 W. Gordon? William Gordon?</p> <p>20 A. He's an Alvarez & Marsal employee.</p> <p>21 Q. And this appears -- this may just</p> <p>22 be a further chain that attaches some of the</p> <p>23 information from Weil but I just wanted to ask</p> <p>24 you about a couple other names on here. Who</p> <p>25 is Mary Karitsky?</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. Mary Kariky.</p> <p>3 Q. Kariky.</p> <p>4 A. She's an Alvarez employee as well.</p> <p>5 Q. Okay. Were they also working on</p> <p>6 analyzing the sale transaction in terms of</p> <p>7 what assets went over?</p> <p>8 A. Yes. That was part of their</p> <p>9 mission, among I'm sure many other things at</p> <p>10 the time.</p> <p>11 Q. We talked a little bit earlier</p> <p>12 about this wash notion that appears in some of</p> <p>13 the litigation papers.</p> <p>14 Can you point to any part of the</p> <p>15 sales documents that require the deal to be</p> <p>16 anything like a wash, that place restrictions</p> <p>17 on what the amount of the assets and</p> <p>18 liabilities have to be?</p> <p>19 MR. TAMBE: Objection to the form</p> <p>20 of the question.</p> <p>21 A. I thought we just discussed that.</p> <p>22 I described the depiction of the long and the</p> <p>23 shorts as described in the APA and how that</p> <p>24 balanced out.</p> <p>25 Q. Right. And you referred to the</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 APA and your belief that maybe there was some</p> <p>3 balance there between long and short. That,</p> <p>4 of course, the APA had to get modified because</p> <p>5 Lehman couldn't deliver those assets. And so</p> <p>6 in terms of the transaction that actually went</p> <p>7 through, the purchase agreement that actually</p> <p>8 -- or the actual deal that was agreed to and</p> <p>9 closed, is there anything in there that you're</p> <p>10 aware of that in your mind could be considered</p> <p>11 to require that after some post-doc analysis</p> <p>12 that liabilities and assets had to somehow</p> <p>13 balance out?</p> <p>14 MR. TAMBE: Objection to the form</p> <p>15 of the question.</p> <p>16 A. It's a very long question and I</p> <p>17 lost track of some of the characterizations</p> <p>18 early on and I'm not sure I accept some of the</p> <p>19 early characterizations that sort of formed</p> <p>20 the premise of it but...</p> <p>21 Q. Okay. You've described your kind</p> <p>22 of understanding of the term wash, and I'm</p> <p>23 asking you is there anything that you can</p> <p>24 point to in the sale agreement, in the</p> <p>25 purchase agreement that required the deal to</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 be a wash?</p> <p>3 MR. TAMBE: Objection to form.</p> <p>4 A. And you don't want me to repeat, I</p> <p>5 assume, what I've already talked about in</p> <p>6 terms of the APA having an implied sort of</p> <p>7 balancing aspect to it? That's the primary</p> <p>8 thing I would look to.</p> <p>9 Q. Well, the terms you referred to in</p> <p>10 the APA came out of the deal because those</p> <p>11 assets couldn't be delivered, right?</p> <p>12 A. Well, that's one way to</p> <p>13 characterize it. Another way to think about</p> <p>14 it is that there wasn't even a specific</p> <p>15 listing of those assets at the time. That was</p> <p>16 people's best estimate of what was on the</p> <p>17 balance sheet of LBI, as I've gleaned from the</p> <p>18 discovery at this point. The idea that they</p> <p>19 couldn't be delivered may in my mind go too</p> <p>20 far.</p> <p>21 The nature of the assets in a</p> <p>22 broker/dealer are going to change day-to-day</p> <p>23 because of the typical machinations in and out</p> <p>24 of a broker/dealer. But there certainly were</p> <p>25 less assets available later in the week than</p>

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2 were there and believed to be there as of the
3 time the APA was negotiated.
4 Q. Right. The 70 billion longs
5 weren't there or a lot of them weren't there
6 later in the week; is that right?
7 A. Some of those assets -- and it's
8 dangerous for me to try to recharacterize
9 what's been in discovery, but I think some of
10 those assets simply weren't available because
11 they were locked up at LBIE, which was under a
12 separate administration at this point, the
13 European broker/dealer. So there were issues,
14 certainly, that caused a fair amount of
15 confusion as I've seen around the -- which
16 assets could and could not be transferred.
17 Q. Um-hum. So other than your sense
18 that there were some rough equivalency
19 associated with some of the initial terms of
20 the APA, is there anything else you can point
21 to that required the deal to be a wash, as you
22 say?
23 MR. TAMBE: Objection to the form
24 of the question.
25 A. No, I think ultimately as the deal

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2 communication of a concept that there was
3 generally a wash. I know it was communicated
4 as a wash kind of transaction to the Lehman
5 board on Tuesday morning according to those
6 minutes.
7 Q. Okay. Why don't we go ahead and
8 take a look at some of those minutes.
9 (Pause on the record.)
10 Q. Do you know who prepared the
11 minutes of the Lehman board?
12 A. Not specifically. Jeffrey
13 Welligson I believe served as the secretary.
14 Q. Was anyone there from Alvarez at
15 the board meeting where this sale was being
16 discussed?
17 A. No.
18 MR. THOMAS: Let me mark this
19 document as 465A.
20 (Deposition Exhibit 465A, document
21 bearing production numbers LBHI 017667
22 through LBHI 017673, marked for
23 identification as of this date.)
24 BY MR. THOMAS:
25 Q. This is a document produced to us

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2 changed, if I can use a -- what may seem like
3 a gratuitous sort of characterization, it
4 seemed like a free for all. It seemed like
5 the confusion over the delivery of the assets
6 that final night between JPM and Bank of
7 New York caused people to go on a land grab,
8 in a sense get everything they possibly could
9 out of the entity that had any value and
10 wasn't nailed down. That's -- the deal as it
11 changed seemed to go that direction.
12 Q. Just -- my question is just
13 whether there's anything that you can point to
14 that you think required the deal to somehow be
15 a wash.
16 MR. TAMBE: Objection to the form
17 of the question.
18 Q. Other than what you mentioned
19 about the initial APA.
20 A. Not specifically in the way the
21 deal was papered, although I do recall that
22 there was a characterization before the court
23 that essentially spoke to that kind of
24 concept. I don't remember -- I don't recall
25 the exact words but I thought there was some

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2 by LBHI. Do you recognize the document?
3 A. Not this specific version of it.
4 I've seen what appeared to me to be a final
5 version of it. But I haven't seen the track
6 change version that this represents.
7 Q. Let me ask you to turn to page 5
8 of the document.
9 A. (Witness complies.)
10 Q. There's -- in the second full
11 paragraph at the end there's a bracket that
12 says, "For LBHI, the transaction was described
13 as a wash with Barclays assuming liabilities
14 of 64 billion basically equivalent to the
15 assets, 70 billion, plus assuming some
16 employees and accounts."
17 Do you see that?
18 A. Yes.
19 Q. Would you consider 70 billion
20 versus 64 billion a wash?
21 A. Well, in and of itself, no. But I
22 would infer that they must be coming to the
23 concept of a wash by presumably the additional
24 obligations being incurred, assuming the
25 employees and accounts.

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Q. Those additional obligations don't add up to anywhere near \$6 billion, though, do they?

MR. TAMBE: Objection to the form of the question.

A. No. Not if they were depicted in a financial schedule or anything else. They totalled to 4.25 billion as I recall.

Q. So how close does it have to be, the assets and liabilities, in your view, for you to consider it a wash?

MR. GATTO: Object to the form. Beyond the scope of the 30(b)(6). He's not here to give you opinions and I instruct him not to answer.

MR. THOMAS: They're valuations --

MR. TAMBE: Yeah.

MR. THOMAS: -- of the assets and liabilities --

MR. TAMBE: He can talk about valuations.

MR. THOMAS: -- which is under the scope of like five topics.

MR. TAMBE: He can talk about

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valuations but he's not going to give you opinions about what is and what isn't a wash.

MR. THOMAS: So you're instructing him not to answer any questions about opinions about a wash?

MR. TAMBE: About opinions, yeah. He can give you -- he's already described to you what he believes a wash to be. He's given you his understanding of what he believes a wash to be and he's given you his understanding of this document.

BY MR. THOMAS:

Q. Do you understand who prepared this document?

A. No.

Q. Do you understand how the \$64 billion calculation was made?

A. No.

Q. Let me ask you to turn -- I'm sorry. I may have asked you -- I don't know if I asked this or not. Was anyone from Alvarez -- I think I did ask it. Was anybody

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from Alvarez at the board meeting?

A. No.

Q. Was anyone from Alvarez in any way involved in the preparation for that board meeting?

A. No. Not to my knowledge.

Q. All right. If you would turn two pages prior to page 3 of the same document.

A. (Witness complies.)

Q. The second full paragraph states, "Mr. Roberts..." do you know Mr. Roberts to be from Weil Gotshal?

A. I would expect that to be Tom Roberts. Was he in attendance? I believe he was.

Yes. I would expect that to be Tom Roberts.

Q. Okay. "Mr. Roberts resumed by describing that it is a condition to the transaction that eight specific firm employees enter into employment agreements with Barclays. He stated that Mr. McGee was one of those employees. So interested firm employees were involved in the transaction negotiations

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on behalf of the firm. Mr. Roberts reported that Mr. McDade was subsequently advised by Barclay that his agreement of continued employment was a condition of the transaction. Mr. Roberts reported that Weil Gotshal & Manages and Simpson Thacher & Bartlett then told Barclays that after numerous discussions concerning Mr. McDade's employment, all the terms of the firm transaction were completed."

LBHI understood that at least some of the executives negotiating the deal with Barclays were also being offered employment by Barclays; is that correct?

A. LBHI -- going back to the characterization I've offered before, during this time certainly LBHI was in the middle of this before the closing. They were still employees of LBHI and LBI. So, yes, LBHI would have been aware of this. Now, just to be clear on how --

Q. That includes the LBHI board, too, right?

A. Well, the LBHI board, to the extent it heard this characterization, would

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2 have been aware of this.

3 Q. And Alvarez was aware of this
4 fact, is it fair to say, at some point
5 certainly within a week or two of the closing?

6 MR. TAMBE: Objection to the form
7 of the question.

8 A. I think Alvarez's knowledge of an
9 issue like this would have been limited to
10 anything we heard in a court hearing on the
11 19th. I think we had some people there. I
12 don't know that we had any particular
13 knowledge or understanding of who was doing
14 the negotiations and what their terms of
15 employment were or were not --

16 Q. Um-hum.

17 A. -- at the time.

18 Q. Okay. And I'm under topic -- depo
19 topic 8 now concerning Lehman's understanding.
20 Assuming executives were being offered
21 employment by Barclays including offers of
22 bonus payments for 2008, Lehman understood
23 that while during this week the deal was being
24 negotiated, it was -- I mean, Lehman, the
25 board, others at Lehman understood that the

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2 officers who were negotiating the deal were
3 being offered employment and bonuses by
4 Barclays and indeed employing a lot of these
5 people was a condition of doing the deal for
6 Barclays since they were trying to buy the
7 business?

8 MR. TAMBE: Objection to the form
9 of the question.

10 A. All right. I'm going to try to
11 make sure I understand the question there.
12 Again, I lose track when it goes on.

13 The Lehman -- you know, the same
14 thing Lehman versus Alvarez & Marsal. Lehman
15 people were clearly knowledgeable about this.
16 They were the people that were getting some
17 offers to some extent. They were the people
18 who were right in the middle of this. All
19 those people that we're talking about are no
20 longer employed by LBHI. They've gone on to
21 Barclays or they've gone their own way.

22 So the short answer to your
23 question is yes, LBHI was aware of this at the
24 time. They were inherently aware because they
25 were part of it.

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2 Q. And in addition to LBHI being
3 aware of this because officers involved in it
4 were aware of it, the LBHI board was aware of
5 that and LBHI's outside counsel was aware of
6 that, too, correct?

7 A. I would suggest asking members of
8 the board and members of Weil Gotshal
9 specifically what they're aware of. Anybody
10 can read this and accept the characterizations
11 there to the extent this accurately depicts
12 what was talked about in a board meeting.
13 People who were there heard that. I mean,
14 there's no arguing that. I just -- I don't
15 want to characterize anything beyond that
16 because I don't know anything beyond that.

17 Q. Okay. But you are the
18 representative of LBHI on this topic.

19 MR. TAMBE: And he's answered with
20 respect to LBHI. He's not here as a
21 representative of Weil Gotshal.

22 MR. THOMAS: Okay.

23 Q. Let me go ahead and show you
24 another document we'll mark as 466A.

25 (Deposition Exhibit 466A, document

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2 bearing production numbers LBHI 017761
3 through LBHI 017764, marked for
4 identification as of this date.)

5 BY MR. THOMAS:

6 Q. Let me ask you, is this a document
7 that you've seen before?

8 A. Not that I recall.

9 Q. Okay. If you would turn to the
10 third page, please. The third full paragraph.
11 70 billion of assets at LBI, 64 billion of
12 liabilities, so paying the BD 94 percent of
13 assets. Do you have an understanding what
14 that's saying, so paying the BD 94 percent of
15 assets?

16 MR. TAMBE: Objection to form.

17 A. No, I don't understand. If I
18 reflected on it for a while, perhaps but
19 sitting here right now, no. I'm guessing BD
20 means broker/dealer but I don't know what the
21 94 percent relates to.

22 Q. The last sentence there says, "If
23 we don't do this deal today, the broker/dealer
24 would have to declare bankruptcy tonight, at
25 which point all employees would leave and

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there will be nothing."

Was it Alvarez's understanding that this was a waste -- LBI was a wasting asset and that some kind of deal needed to be done right away?

MR. TAMBE: Objection to the form of the question.

A. I don't know -- Alvarez & Marsal wasn't involved in the deal itself. I think anybody recognizes that a broker/dealer with a bankrupt parent can't last long. I don't think any reasonable person would argue with that. Just to -- rather than accepting the characterization that it was a wasting asset, as it relates to the estate itself, now, you look at that and, you know, there was a net give-away of several billion dollars of economic value as a result of this deal.

So I wouldn't accept the characterization that it was a wasting asset. I mean, the creditors were ultimately better off if you just let LBI go down with LBHI.

Q. What is the basis for your saying there was a net give-away of several billion

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dollars?

A. The Barclays disclosure in their February 6 financial announcement that they made \$4.2 billion on the acquisition of LBI.

Q. Anything else other than that?

A. There was also characterizations by Mr. Clackson in his deposition that acknowledged the ultimate gain -- accounting gain was closer to 4.9 or \$5 billion. That accounting gain equates to economic value.

Q. You have a good understanding of what went into that accounting gain?

A. Reasonably so, yes. I consider myself expert on that issue of accounting.

Q. And you've studied that -- the Barclays papers?

A. I've reviewed the Barclays papers there, yes.

Q. And can you explain what you mean when you say an accounting gain?

A. Accounting gain for purposes of acquisition accounting equates to economic gain. The accounting rules are driven off of determining the fair value of the assets and

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liabilities and any excess of assets acquired, fair market value of assets acquired versus liabilities assumed equates to economic gain. So accounting gain equals economic gain in this vein.

Q. Other than what you've identified --

MR. TAMBE: Can we just tie this down to some 30(b)(6) topic that you've identified. He's not going to testify on behalf of Barclays. You had your folks to do that.

MR. THOMAS: First of all, I'm directly following up on what he just testified.

MR. TAMBE: That's fine but you can't exceed the scope of the 30(b)(6) even if you're following up on something he told you.

MR. THOMAS: And that's -- sorry. And it does relate to the valuations and due diligence in terms of what the valuations were going forward after the deal. I mean, I can stop and go tie it

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to several topics but --

MR. TAMBE: I don't think it does. I think at the end of the day how Barclays accounted for the gain doesn't tie into the valuation from LBHI's perspective.

MR. THOMAS: When his answer to clearly a topic question of the valuation goes to Barclays accounting report, then I'm allowed to at least explore the basis of his knowledge.

MR. TAMBE: And I'll let you do that but if you start going into the accounting theory now and the accounting theory behind Barclays gain, I think you're going too far afield.

MR. THOMAS: Once again, he used a term in his answer. Okay? I didn't go out there. He used the term. I want him to explain what he meant by that.

MR. TAMBE: And I allowed him to do that.

MR. THOMAS: Okay. Well, I think we've probably exhausted this.

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 MR. TAMBE: Okay.</p> <p>3 Q. Is there anything other than your</p> <p>4 interpretation of the Barclays work and the</p> <p>5 thing with Mr. Clackson you cited that you</p> <p>6 believe indicates that there was a gain for</p> <p>7 Barclays?</p> <p>8 A. Is there anything else beyond</p> <p>9 Barclays admission in a public filing?</p> <p>10 Q. Yeah. I'm not questioning it. I</p> <p>11 just want to know. Let me ask you differently</p> <p>12 because -- did Alvarez do any similar type of</p> <p>13 analysis as to what the actual agenda was?</p> <p>14 A. Certainly not at the time that</p> <p>15 that announcement came out in February.</p> <p>16 Q. Okay. Did anyone ask Alvarez to</p> <p>17 say, hey, we have this notion that assets were</p> <p>18 supposed to roughly equal liabilities. Could</p> <p>19 you do an analysis in October, November,</p> <p>20 December to see whether the assets and</p> <p>21 liabilities really balanced out?</p> <p>22 A. I think we've covered this ground</p> <p>23 generally but we didn't undertake a true</p> <p>24 forensic valuation of the deal until January</p> <p>25 of 2009.</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 Q. Um-hum.</p> <p>3 MR. THOMAS: Why don't we take a</p> <p>4 five-minute break now.</p> <p>5 MR. TAMBE: Okay.</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 2:27. We are going off the record.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 2:42. We are back on the record.</p> <p>11 BY MR. THOMAS:</p> <p>12 Q. Mr. Kruse, let me ask you to turn</p> <p>13 back to Exhibit 464A, an e-mail from</p> <p>14 William Gordon from Alvarez. And the second</p> <p>15 page is an attachment which is AM 2294, the</p> <p>16 Bates number, and up at the top where it says</p> <p>17 "All exchange-traded derivatives (and any</p> <p>18 property that may be held in security</p> <p>19 obligations under such derivatives)."</p> <p>20 Do you understand the</p> <p>21 parenthetical to be confirming that the sale</p> <p>22 transaction was transferring the</p> <p>23 exchange-traded derivatives and any collateral</p> <p>24 associated with the delivery of the</p> <p>25 derivative?</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 MR. TAMBE: Objection to form.</p> <p>3 A. Security and collateral to me</p> <p>4 probably have the same meaning in that context</p> <p>5 so I would have to say yes.</p> <p>6 Q. Did Alvarez ever attempt to value</p> <p>7 the exchange-traded derivatives and collateral</p> <p>8 that were transferred to Barclays as part of</p> <p>9 the sale transaction?</p> <p>10 A. I thought we covered this.</p> <p>11 Q. Okay. Other than -- prior to</p> <p>12 March, and we may have, apologies, but did you</p> <p>13 ever attempt to value the amount of the</p> <p>14 derivatives in the collateral?</p> <p>15 MR. TAMBE: Objection. Asked and</p> <p>16 answered. Object to form.</p> <p>17 A. No. Not that I'm aware of.</p> <p>18 Q. You accepted that there would be</p> <p>19 some amount of value associated with the</p> <p>20 derivatives and collateral, is that fair?</p> <p>21 A. I have no basis to answer that.</p> <p>22 Q. Let me show you another document</p> <p>23 we'll mark as 467A.</p> <p>24 (Deposition Exhibit 467A, document</p> <p>25 bearing production numbers HHR_00006469</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 with attachment, marked for</p> <p>3 identification as of this date.)</p> <p>4 BY MR. THOMAS:</p> <p>5 Q. This is an e-mail among a number</p> <p>6 of people, Weil, the trustee, and a couple</p> <p>7 people at Lehman. Do you recognize this</p> <p>8 document?</p> <p>9 A. I don't recall having seen it.</p> <p>10 Q. Okay. Do you know who Brett</p> <p>11 Beldner is?</p> <p>12 A. No.</p> <p>13 Q. You know who Martin Kelly is?</p> <p>14 A. Yes.</p> <p>15 Q. On the attachment to this e-mail,</p> <p>16 which is described in the e-mail itself as a</p> <p>17 draft LBI balance sheet reflecting unaudited</p> <p>18 estimates pre and post Barclays transaction,</p> <p>19 and on the attached balance sheet under</p> <p>20 inventory, do you see derivatives there</p> <p>21 indicating a value of 3.6?</p> <p>22 A. Yes, I see that.</p> <p>23 Q. Okay. All right. And does</p> <p>24 this -- were you ever aware of any kind of</p> <p>25 valuation of derivatives in that general</p>

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2 range?

3 A. I don't recall. To me
4 exchange-traded derivatives, they are what
5 they are. They're exchange traded. So
6 there's, you know, an active market for them
7 as I infer.

8 Q. Is your point that because there's
9 an active market for them, their price would
10 be whatever they trade at?

11 A. Yes.

12 Q. I mean, I guess you have no basis
13 for denying that the derivatives and
14 collateral transferred to Barclays had
15 significant economic value associated with it?

16 A. I have no basis for commenting on
17 that. I know obviously it's part of the deal
18 as it's summarized by Weil in that e-mail.

19 Q. Let me show you a document that's
20 been previously marked as Exhibit 442. It's a
21 large document, and I'm going to ask you about
22 something at the top of page 47. You're
23 welcome to flip a little before and a little
24 after if you want.

25 (Document review.)

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2 Q. And I'd like to ask you, going
3 back to this 47.4 figure -- and as I
4 understand it, neither LBHI or Alvarez are
5 aware of how that 47.4 figure was calculated;
6 is that right?

7 A. Alvarez is not. LBHI, again, I
8 think the employees that have gone over to
9 Barclays, to the extent there is knowledge,
10 would be in the best position to address that.

11 Q. But in terms of the knowledge that
12 LBHI through documents --

13 A. Yeah, the knowledge currently at
14 resident in the estate, no, there is no
15 knowledge about how that number is derived.

16 Q. Did you ask anyone at Weil Gotshal
17 how it was derived?

18 A. I did not directly. I think Jones
19 Day has had discussions with them.

20 Q. Do you have any knowledge for us
21 today about the 47.4 as an LBHI designee on
22 this figure?

23 MR. TAMBE: If you agree that's
24 not going to be deemed a waiver.

25 MR. THOMAS: Agreed.

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2 A. To my knowledge, Weil Gotshal
3 doesn't remember where they got the number.

4 Q. Do you have any further knowledge
5 on that?

6 A. No.

7 Q. When you look at the number at the
8 top of page 47, it says -- Ms. Fife, Weil
9 Gotshal, speaking to the court, "So originally
10 we were selling assets that had a value of
11 70 -- approximately \$70 billion and today,
12 Your Honor, we're only selling assets that
13 have a value of \$47.4 billion."

14 The \$70 billion, do you understand
15 that to be referring to subsection D of the
16 list of purchased assets in the initial APA?

17 MR. TAMBE: Objection to form.

18 A. Just to be clear, I should go back
19 and look at subsection D of the APA.

20 (Document review.)

21 A. Yes. The long positions.

22 Q. Okay. And from your read of this,
23 would this be saying that the long positions
24 are now down to 47.4?

25 MR. TAMBE: Objection to the form

1 P. KRUSE - HIGHLY CONFIDENTIAL
2 of the question.

3 A. It says what it says. But I don't
4 think it's necessarily appropriate to equate
5 70 billion in value going down to 47.4 billion
6 in value. The mix of securities is different
7 between the APA number and this number I would
8 assume.

9 Q. Well, the 70 billion would not be
10 all of the assets that Barclays was going to
11 acquire under the initial Asset Purchase
12 Agreement, correct?

13 A. The 70 billion --

14 Q. The 70 billion long, subsection D
15 of the purchased asset list did not constitute
16 all of the assets that Barclays was going to
17 obtain in the initial Asset Purchase
18 Agreement, right?

19 A. No, of course not. There's
20 obviously numerous subsections that delineate
21 the purchased assets.

22 Q. Right. For example, one of the
23 other subsections was 50 percent of the RESIs,
24 right?

25 A. Yes.

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Q. And the total RESIs at that time add a Lehman value of \$6 billion approximately; is that right?

MR. TAMBE: Objection to the form of the question.

A. I think we've covered this. And, again, I've got confusion as to what constituted the RESIs. I've never seen a real separate stand-alone list of what those RESIs were and which CUSIPS made up that number. I could rattle off what I do recall about it. I know on the financial schedule attached -- that was referred to in the APA, I believe mortgage assets are stated at 2.7 billion but I --

Q. Was that mortgage assets or half of the mortgage assets?

A. My vague recollection is that that is half, but I'm not a hundred percent certain.

Q. Okay. But, in any event, whether it be 2.7 billion or 3 billion, that was separate from the 70 billion subsection D long positions as listed out in the Asset Purchase

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Agreement?

A. Yeah, I believe that's the understanding I got actually from the Steven Berkenfeld deposition.

Q. And from looking at the -- that's consistent with your reading of the APA, correct?

A. Yes.

Q. Which is a number of different assets.

MR. THOMAS: Let me go ahead and mark another document. It will be 468A.

(Deposition Exhibit 468A, document bearing production numbers AM 004734 through AM 004738, marked for identification as of this date.)

BY MR. THOMAS:

Q. This is an e-mail from Jamie Schwarz. Is that someone who works for Alvarez?

A. I believe so.

Q. And to a number of people that work at Alvarez?

A. Yes, I recognize all these people

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as being Alvarez people.

Q. And this is dated September 22nd, which is -- 2008, the date of closing. Can you describe what work this is a part of?

MR. TAMBE: Objection to the form of the question.

A. Well, if I understand what you're asking, I think it would be an attempt early on to categorize and inventory the assets that were transferred to Barclay so that we knew what we were obligated to deal with in the administration of the estate versus what we were not obligated to deal with.

Q. And why was it important for Alvarez to figure that out?

A. It's self-evident to me. I mean, our mission was to administer the wind-down of the Lehman Brothers estate. You've got to know what assets are yours in order to begin that process.

Q. If you would turn to the last page of this exhibit. It says Holdings Barclays Deal up at the top.

Do you see that?

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A. Yes.

Q. Under the included assets, the fourth bullet point, it says Trading Assets, 47 billion long, and then it lists certain securities underneath it.

A. Yes.

Q. Would that be consistent with the notion that the 47 billion number was related to subsection D of the purchased asset list?

A. Yes. The terminology is consistent.

Q. Does this refresh your recollection as to whether it was Alvarez's understanding that the \$47 billion figure was related not to the total of all assets in the deal but to what had become of the \$70 billion long position?

MR. TAMBE: Objection to the form of the question.

A. That's a reasonable inference to me, yes. When I read the testimony, I assumed, because she started talking about 70 billion, she was talking about the corollary of that a few days later. So I

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2 would -- that would be my inference on the
3 face of the court transcript.

4 Q. Thank you.

5 When was the -- so there was no
6 analysis of the deal by Alvarez prior to
7 closing?

8 A. No.

9 Q. Okay. Sorry I'm pausing but I'm
10 actually cutting stuff out. So it's a
11 productive pause.

12 (Pause on the record.)

13 Q. Let's move to the cure and comp
14 figures, which I believe is one of the depo
15 topics.

16 Can you tell me everything you
17 know either in your capacity as the LBHI or
18 Alvarez witness about how the comp figure
19 referred to in the purchase agreement was
20 derived?

21 A. At what point in time? I'm
22 just -- I want to make sure -- the topics seem
23 to focus on what we knew at the time the deal
24 was being done, and I think we've established
25 we knew nothing about this deal at the time.

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2 So at what point in time? You know, there's
3 been a lot of discovery on that topic. I'm
4 just trying to narrow down what you want from
5 me.

6 Q. Okay. Let's start with -- let's
7 start with what you know now at any time. So
8 your total knowledge of what the comp figures
9 were.

10 A. Total knowledge of what the comp
11 figures were. Do you mean total knowledge of
12 how it was derived in the context of the deal?

13 Q. Yes.

14 A. Well, our current knowledge is
15 embodied in the discovery and Rule 60(b)
16 motion and the exhibits thereto, but if I can
17 try to characterize that as best I can sitting
18 here now, I think there was real confusion in
19 the record thus far as to whether that was
20 derived by Lehman people and given to Barclays
21 or whether it was a negotiated amount. I know
22 I've heard in some ways contradictory
23 testimony from people as to how they derived
24 that number. And I have some lack of clarity
25 sitting here even today as to specifically how

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2 the number was derived.

3 Q. Other than just kind of reading
4 testimony and litigation materials, do you
5 have any knowledge as to how that was -- the
6 comp number was derived, such as by speaking
7 with people at Lehman or speaking with people
8 at Alvarez or review of Lehman documents?

9 A. Well, I'm not familiar and I could
10 be not remembering this correctly, but I don't
11 recall that there was any sort of empirically
12 derived build-up of how the number was put
13 together at that time. I've never seen a
14 schedule that says here's our comp accrual.
15 Here's how we're building this up for purposes
16 of a negotiation what the number should be. I
17 don't have an understanding of that kind of
18 support for it.

19 Q. Um-hum. Was it your understanding
20 that the comp figure included severance as
21 well as bonuses?

22 MR. TAMBE: Objection to the form
23 of the question.

24 A. No. I think severance is in a
25 separate section of the agreement. Severance

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2 is 9.1(b), if I'm not mistaken. Bonus is
3 discussed in 9.1(c). So I think it's a
4 separate concept, as I understand it.

5 Q. Let me go ahead and show you a
6 document we'll mark as 469A.

7 (Deposition Exhibit 469A, document
8 bearing production numbers
9 BCI-EX-00115450 through BCI-EX-00115462,
10 marked for identification as of this
11 date.)

12 BY MR. THOMAS:

13 Q. Do you recognize this document?

14 A. I believe I've seen this, yes.

15 Q. And when did you see it?

16 A. I would have seen this in the
17 course of the Rule 2004 discovery motion as I
18 best recall.

19 Q. I think I asked you before. Brett
20 Beldner, do you know if he's still at Lehman?

21 A. I don't know.

22 Q. Okay. Who is Robert Azaron?

23 A. He was a Lehman employee. I
24 assume he still is but I don't know that.

25 Q. And Marie Stewart?

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2 A. I don't know that name.

3 Q. Paragraph 6 here says the comp
4 accrual and cure payment accruals are just
5 estimates. And then it says comp for a year
6 should probably not be the full accrual and
7 cure payment should be actual.

8 Do you understand what the
9 parenthetical means?

10 A. Other than just the English
11 interpretation of what it says, I don't have
12 any particular insight about it, no.

13 Q. Okay. On the next page for cure
14 payments it says Placeholder for actual
15 accrual.

16 Do you see that?

17 A. Where are you?

18 Q. I'm sorry. I'm looking at the
19 wrong document.

20 MR. TAMBE: The Bates number?

21 MR. THOMAS: Hold on. I have the
22 wrong -- let me see if I can find it.
23 Well, you may get a pass on this
24 document.

25 Q. All right. Can you describe at

1 P. KRUSE - HIGHLY CONFIDENTIAL

2 all the process at Lehman for how the bonus
3 number was calculated other than based on your
4 reading of litigation materials?

5 A. The process that Lehman employed
6 in the ordinary course?

7 Q. Yes.

8 A. Of computing its compensation
9 accrual?

10 Q. Sure.

11 A. I know I've been in conversations
12 around this. The best of my recollection
13 sitting here today, I know that they -- for
14 the cash portion Lehman has had a cash and a
15 stock portion of their bonus that went to
16 their people in any given year. The cash
17 portion was accrued ratably through the year.
18 As I understand it, the stock portion vested
19 at a given date after the end of the year and
20 therefore wasn't part of the accrual. I've
21 heard I think Ian Lowitt testified in his
22 deposition on this particular subject and he's
23 in a much better position than I am to get
24 that characterization correct.

25 Q. Um-hum. And are you -- now, as

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2 part of the forensic analysis you did when you
3 became concerned over these assumed
4 liabilities, did you determine how much
5 Barclays actually spent on compensation in
6 2008 for the Lehman employees that came over?

7 A. We had no way of knowing what
8 Barclays spent on compensation.

9 Q. Okay. Were you aware that
10 Barclays paid a higher percentage of cash
11 compensation as compared to Lehman?

12 A. I've come to the realization
13 seeing the employment agreements in --
14 produced in discovery.

15 Q. And so even if there can be total
16 compensation is going to be the same as Lehman
17 Brothers and Barclays, Barclays would have to
18 accrue more because they pay more in cash
19 versus Lehman who is going to pay a higher
20 percentage in Lehman stock; is that fair?

21 A. Well, I don't know how Barclays
22 accounts for it. I don't know if they have
23 that same distinction between cash and stock.
24 I think from an accounting standpoint it
25 depends on the terms of the stock grants and

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2 how they inure or accrue or vest to the
3 employee. If it's a cliff vesting, you may
4 not record them until after they're granted.
5 It just depends on the facts and
6 circumstances. I don't know how Barclays
7 accounts for that.

8 Q. And with respect to the cure, the
9 assumption of the compensation requirement or
10 liability, what with respect to compensation
11 gave you concern?

12 A. Well, I think the insight in that
13 is embodied in the letter that I think Brian
14 Marsal sent on February 19th to Jonathan
15 Hughes at Barclays. And in that letter we --
16 it gives a sense of what we're seeing in the
17 books and records of Lehman at the time as to
18 how -- what was on the books for compensation,
19 and it's not close to \$2 billion. So we're
20 just asking the question to Barclays, help us
21 understand this.

22 Q. In terms of the cure and
23 transaction payment amounts that assumed the
24 liability, do you know how that was
25 calculated?

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 A. I'm sorry. The cure?</p> <p>3 Q. Do you know how they came up with</p> <p>4 the cure amount?</p> <p>5 A. In the context of the deal --</p> <p>6 Q. Yes.</p> <p>7 A. -- and how it was depicted in</p> <p>8 the -- for example, the financial schedule?</p> <p>9 Q. The 1.5 billion that was</p> <p>10 referenced to the court.</p> <p>11 A. Yeah. The reference as 1.5 in the</p> <p>12 court as we know is referenced as 2.25 billion</p> <p>13 in the financial schedule. Again, a lot of</p> <p>14 ambiguity in the record as I currently</p> <p>15 interpret it as to how that number was</p> <p>16 derived. At a minimum it appears to have been</p> <p>17 dramatically overstated as to what the actual</p> <p>18 cost in my view was.</p> <p>19 Q. You understood that it was on the</p> <p>20 face of the agreement and, as mentioned to the</p> <p>21 court, it was a kind of a maximum estimate of</p> <p>22 a maximum potential exposure.</p> <p>23 MR. TAMBE: Objection to form.</p> <p>24 Q. I mean, Barclays could have</p> <p>25 incurred zero cure under the terms of the</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 agreement. What was estimated was a maximum</p> <p>3 potential exposure, correct?</p> <p>4 A. I don't know if that's how it's</p> <p>5 cure -- I don't think it's characterized as</p> <p>6 the maximum potential exposure. It might be.</p> <p>7 I just don't recall that.</p> <p>8 Q. Okay. I mean, it certainly wasn't</p> <p>9 something -- I mean, you don't understand that</p> <p>10 Barclays had determined at that point in time</p> <p>11 what contracts it was going to assume, right?</p> <p>12 A. I understand that process was</p> <p>13 ongoing after the closing to some extent.</p> <p>14 Q. But prior to the closing time, I</p> <p>15 mean, you had no idea which, if any, contracts</p> <p>16 Barclays was going to assume, correct?</p> <p>17 A. I've seen indications that appear</p> <p>18 to me to be coming from preclosing documents</p> <p>19 that would suggest there were people who knew</p> <p>20 that that liability was grossly overstated at</p> <p>21 \$1.5 billion.</p> <p>22 Q. But, again, it wasn't the sort of</p> <p>23 liability that was going to be taken on.</p> <p>24 Would you agree it's a potential exposure</p> <p>25 because Barclays could choose how many and</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 which contracts it wanted to assume?</p> <p>3 A. You probably don't need me to</p> <p>4 characterize how it's laid out in the</p> <p>5 agreement. I agree it's not a hard and fast</p> <p>6 number in the agreement. It's an estimate as</p> <p>7 characterized.</p> <p>8 Q. Well, I'm asking you in terms of</p> <p>9 your understanding, what LBHI's understanding</p> <p>10 was prior to closing and after closing as to</p> <p>11 whether that was an estimate of supposedly</p> <p>12 what was going to be actually incurred or was</p> <p>13 it simply an estimate of potential exposure?</p> <p>14 A. I'm not sure I can make that</p> <p>15 distinction. It was -- you would expect a</p> <p>16 liability to be estimated to your best</p> <p>17 efforts. It doesn't appear to me that that</p> <p>18 was done.</p> <p>19 Q. How would -- if it wasn't known</p> <p>20 which contracts would be assumed, how would</p> <p>21 one go about trying to figure out what would</p> <p>22 be the actual cure amount?</p> <p>23 MR. TAMBE: Objection to form.</p> <p>24 A. At a high level you could look at</p> <p>25 the accounts payable activity and look at --</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 get some bearings as to, okay, what are the</p> <p>3 significant contracts, what do we think we</p> <p>4 need, they're mission critical to run the</p> <p>5 business. I've seen indications in some of</p> <p>6 the documents that are included as exhibits</p> <p>7 that would suggest -- one of them I recall, if</p> <p>8 I'm not mistaken, was produced in the Cox</p> <p>9 deposition and there was notes up to the side</p> <p>10 that would suggest Cox had an understanding or</p> <p>11 whoever wrote that note had an understanding</p> <p>12 that the real liability was really only \$200</p> <p>13 million. Not 1.5 billion or 2.25 billion.</p> <p>14 Q. But other than your kind of</p> <p>15 interpretation of the litigation materials</p> <p>16 that you referenced as part of this</p> <p>17 litigation, do you have any knowledge as to</p> <p>18 how that figure was calculated?</p> <p>19 MR. TAMBE: Objection to the form</p> <p>20 of the question.</p> <p>21 A. At the time?</p> <p>22 Q. Did you at the time?</p> <p>23 A. Well, certainly not at the time.</p> <p>24 Q. Do you now have any knowledge</p> <p>25 other than your reading of litigation</p>

1 P. KRUSE - HIGHLY CONFIDENTIAL
2 materials?

3 MR. TAMBE: Object to form.

4 Q. Or being advised by Jones Day.

5 A. I don't think there's any evidence
6 in the record to suggest that a good faith
7 effort to derive that number prior to closing.
8 Or to support that number prior to closing of
9 the deal.

10 Q. You're characterizing your view of
11 kind of the record. My question is just a
12 little bit different. I just want to make
13 sure I understand whether you have any
14 information other than your characterizing the
15 litigation record about how that was
16 calculated. I mean, have you talked to people
17 that are involved? Did you go back and look
18 at documents and so forth?

19 A. It's hard for me to parse that
20 because my current understanding is based on
21 the litigation record. I don't have an
22 independent understanding apart from, you
23 know, the work I've been doing in support of
24 this matter.

25 Q. Okay. So I just want to make sure

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2 for preparation -- for discussion of this
3 topic you didn't go back and talk to people or
4 look at documents other than the litigation
5 materials.

6 A. No. I looked at the documents we
7 discussed this morning. I think that's --
8 we've covered that.

9 (Deposition Exhibit 470A, document
10 bearing production numbers
11 LBHI_SEC07940_927774 through
12 LBHI_SEC07940_927779, marked for
13 identification as of this date.)

14 BY MR. THOMAS:

15 Q. Was Alvarez aware prior to the
16 closing that there were transaction
17 adjustments made to the cure and comp figures?

18 MR. GATTO: Object to the form.

19 A. Was Alvarez aware there were
20 transaction adjustments made to the comp and
21 cure. I think what you're going to show me is
22 a balance sheet that has the transaction
23 adjustment on it that might have been copied
24 to A&M at some point in time. I don't think
25 anybody had an understanding of that or put a

1 P. KRUSE - HIGHLY CONFIDENTIAL
2 focus on that at the time.

3 Q. Well, let me see if this is what
4 you think I was going to show you. It's
5 Exhibit 470A. Have you seen this document
6 before?

7 A. I believe I have.

8 Q. Is this the document that you were
9 referring to?

10 A. What I was fixated on was the
11 balance sheet so I have to look at this and
12 see if it jogs my memory. There were -- it
13 was characterized as transaction adjustments
14 in the document that I was thinking of.

15 (Document review.)

16 A. It's not the exact document but
17 it's probably not dissimilar to the one I was
18 thinking about.

19 Q. Okay. Let me -- this is a
20 document from Martin Kelly at Lehman. And
21 it's sent to, among others, David Coles at
22 Alvarez and John Suckow.

23 A. Suckow.

24 Q. Suckow. And James Fogarty.
25 They're all at Alvarez; is that right?

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2 A. Well, Dan Fogarty is no longer at
3 Alvarez. I think you're aware of that.

4 Q. And this is sent very early in the
5 morning it appears, late on September 19th,
6 2008, 1:12 a.m. So it's really more like
7 very, very late on the 18th. And the lower
8 e-mail from David Coles to Kristy Wong at
9 Lehman. It says, "Kristy, some colleagues and
10 I have met on Tuesday and discussed the
11 consolidated balance sheet and the likely post
12 Bar Cap sale -- " it says BS.

13 A. Balance sheet.

14 Q. Oh, balance sheet. Okay. Sorry.
15 Not an accountant.

16 "Martin suggested we could get
17 some information from you. Do you have a
18 current consolidating BS file by entity that
19 you could send or grant us access?"

20 Now, I had thought you had said
21 that Alvarez prior to closing was really not
22 doing any work relating to the sales
23 transaction. Can you describe to me what's
24 going on here?

25 A. Yes. We were trying to understand

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what the entry was going to look like post sale. What's the domain of assets and liabilities we need to deal with. I think that's exactly what they're asking about here. They want a balance sheet that depicts the entity and then the deal gets done.

Q. So as part of that they wanted to know what assets and liabilities were being transferred as part of the sale transaction, correct?

A. You could probably say that by inference but I think the focus on our part would have been what are we going to be responsible for managing.

Q. Do you know -- have you seen the spreadsheet that's attached before?

A. I believe I have. Again, I have a recollection of seeing this.

Q. And you see that there's a Transaction Adjustments column on the right-hand side?

A. Yes.

Q. And then if you go a couple more pages to the Bates ending in 778 you'll see

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under Payables there's transaction adjustments for the bonus payable and a cure payments accounts payable.

Do you see that?

A. I'm not there yet. I'm sorry.

Q. The page ending Bates number 778.

A. Yes.

Q. Under Payables.

A. Yes.

Q. Do you see where there's transaction adjustments for the bonus payable and cure payments/accounts payable?

A. Yes.

Q. Do you know if Alvarez was concerned about the fact that there were transaction adjustments to this amount?

A. No. Again, I think our focus was not on the transaction or -- itself. It was on help us understand the assets and liabilities we need to be focused on as we begin to administer the wind-down of this estate.

Q. It's fair to say at least Alvarez was aware of the fact that there was

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transaction adjustments to these items.

MR. TAMBE: Objection to the form.

A. I could not say one way or the other whether anybody focused on that. I don't think -- if I were them at the time and what I would have been thinking about I would not have focused on it.

Q. Did you talk to these people to see if they focused on it? These people being the ones that received this at Alvarez.

A. I've spoken to John Suckow so I know that John would not have been thinking about this at the time. Jim Fogarty you're going to get him in a couple of weeks.

Q. Did you ask Mr. Suckow about comp and cure and --

A. I did not ask him specifically about this document. But I'm reasonably certain given significant interaction with John that he would not have been focused on this at the time.

Q. What was your -- why did you call John?

MR. TAMBE: Objection to the form

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of the question.

Q. For purposes of this deposition?
I think you said you called --

MR. TAMBE: Object to the form.
He interacts with John almost on a daily basis.

MR. THOMAS: I think the testimony was he called him for purposes of deposition.

MR. TAMBE: I'm not sure that's what he said so why don't you --

MR. THOMAS: Yeah.

A. I reached out to John initially in the context of I think what you're asking when I was shown the October 8th, 2008 Unsecured Creditors Committee presentation because I had never focused on the slide that you questioned me about earlier. And, as I said, most of the A&M team was in and out throughout that process. And I wasn't present at the time this was discussed. John was there the entire time. So I asked John, Do you have any recollection of how this was talked about. You know, what concerns might have been there

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 found the question curious because you</p> <p>3 guys have the GFS system, we don't. We</p> <p>4 have to ask you for data about GFS</p> <p>5 system. And we did in discovery.</p> <p>6 That's how we got it. So you know more</p> <p>7 about it than we do.</p> <p>8 MR. THOMAS: I will confess I</p> <p>9 don't know anything so I'm going to</p> <p>10 just --</p> <p>11 MR. TAMBE: I wasn't sure if you</p> <p>12 knew about it when you were asking the</p> <p>13 questions anyway but we don't have</p> <p>14 access --</p> <p>15 MR. THOMAS: I know it exists but</p> <p>16 these little technical details maybe</p> <p>17 we --</p> <p>18 MR. TAMBE: No, we don't have</p> <p>19 access to it. So we can't just go into</p> <p>20 GFS and make queries. We have to ask</p> <p>21 you, Barclays, to give us data that we</p> <p>22 can then review so...</p> <p>23 MR. THOMAS: Yeah.</p> <p>24 BY MR. THOMAS:</p> <p>25 Q. Are there any other records</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 generated by the marking process?</p> <p>3 A. I don't know. I don't have</p> <p>4 perhaps extensive understanding of the</p> <p>5 intricacies of the system that you're looking</p> <p>6 for. I do think there's much better resources</p> <p>7 for you to find out under Barclays' roof right</p> <p>8 now.</p> <p>9 MR. THOMAS: Why don't we go ahead</p> <p>10 and take a short break and see how much</p> <p>11 more I have left.</p> <p>12 THE VIDEOGRAPHER: The time is</p> <p>13 3:30. We are going off the record.</p> <p>14 (Recess taken.)</p> <p>15 THE VIDEOGRAPHER: The time is</p> <p>16 3:41. We are back on the record.</p> <p>17 BY MR. THOMAS:</p> <p>18 Q. Mr. Kruse, I'd just like to walk</p> <p>19 through some of the deposition topics if you</p> <p>20 want to pull that -- Exhibits 1 and/or 2 out.</p> <p>21 I think they're pretty identical.</p> <p>22 A. I think you mean 457A and 458A.</p> <p>23 Q. Oh, yeah. That's true. You're</p> <p>24 ahead of me. Excuse me.</p> <p>25 In looking at topic 2 in terms</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 of -- excuse me. Topic 3. In terms of when</p> <p>3 you understood that Barclays acquired -- was</p> <p>4 acquiring the repo collateral, the clearance</p> <p>5 box assets, the 15(c)3 assets and the</p> <p>6 exchange-traded derivatives, and the margin,</p> <p>7 with respect to you, Alvarez, and we can go</p> <p>8 back through these exhibits if you want, but</p> <p>9 certainly as of the e-mail description of the</p> <p>10 deal by Weil the week after the deal, it's</p> <p>11 fair to say that Alvarez was aware of these</p> <p>12 things.</p> <p>13 MR. ROTHMAN: Objection to form.</p> <p>14 A. Well, I can't attest to how much</p> <p>15 we would have focused on all the details of</p> <p>16 that Weil attachment. I think -- I tried to</p> <p>17 describe our focus for what it was. It was</p> <p>18 really on what's ours and what do we need to</p> <p>19 be concerned about from an estate</p> <p>20 administration standpoint.</p> <p>21 Q. But putting aside whether that was</p> <p>22 really your focus at the time, it was</p> <p>23 information that you had that was provided to</p> <p>24 you by Weil?</p> <p>25 A. Yes.</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 Q. I mean, that was your</p> <p>3 understanding. The topic is just when Alvarez</p> <p>4 understood that Barclays acquired the repo</p> <p>5 collateral, the clearance box assets, the</p> <p>6 15(c)3 assets, the exchange-traded derivative</p> <p>7 and the margin. If it wasn't -- it was</p> <p>8 roughly in that time at least within a week or</p> <p>9 so after closing. That fair enough?</p> <p>10 MR. TAMBE: Objection to form.</p> <p>11 MR. ROTHMAN: Join.</p> <p>12 Q. I can give you a date if you want.</p> <p>13 For example, the September 27th e-mail from</p> <p>14 Weil to a number of people at Alvarez</p> <p>15 describing the purchase assets. Roughly in</p> <p>16 that time period that Alvarez -- certainly by</p> <p>17 that time period Alvarez would have been aware</p> <p>18 of -- that Barclays was acquiring those</p> <p>19 assets, correct?</p> <p>20 MR. TAMBE: Objection to form.</p> <p>21 A. Generally, yes.</p> <p>22 Q. And now putting on your LBHI hat,</p> <p>23 is it your understanding that Weil who drafted</p> <p>24 the deal documents, was obviously LBHI's</p> <p>25 counsel, was obviously aware that Barclay was</p>

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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 acquiring those assets prior to closing?</p> <p>3 MR. ROTHMAN: Objection to the</p> <p>4 form.</p> <p>5 A. Yeah. As I interpret the</p> <p>6 attachment to the e-mail you're referring to</p> <p>7 where Weil is summarizing the deal terms, I</p> <p>8 took that to mean they're summarizing, you</p> <p>9 know, the documentation to the deal, the APA,</p> <p>10 the clarification letter, et cetera, and</p> <p>11 putting their own interpretation on that.</p> <p>12 Q. So that reflected -- sorry. So</p> <p>13 that reflected Weil's understanding.</p> <p>14 A. That would be my inference, yes.</p> <p>15 Q. Now, number 4, topic 4 deals with</p> <p>16 communications to or from interested parties.</p> <p>17 When's the first time that you're aware of</p> <p>18 post-closing communications between Lehman or</p> <p>19 Alvarez and the trustee about the terms of the</p> <p>20 sale?</p> <p>21 A. I think this got covered and I</p> <p>22 recall talking about the December 15th, 2008</p> <p>23 meeting we had with Hughes Hubbard and certain</p> <p>24 other representatives. Including a person</p> <p>25 from Deloitte & Touche. That's the first</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 formal communication with the trustee that I'm</p> <p>3 aware of about the deal. There may have been</p> <p>4 others but, you know, that's -- again, we were</p> <p>5 doing our own diligence on this sale motion</p> <p>6 order at that point.</p> <p>7 Q. Are you aware of any other</p> <p>8 informal earlier communications?</p> <p>9 A. I'm not aware of any, no.</p> <p>10 Q. Is it fair to say the</p> <p>11 information -- any information that you</p> <p>12 learned about the sale transaction that was</p> <p>13 news to you after -- let's say after October</p> <p>14 had to do with the liabilities that you</p> <p>15 discussed earlier?</p> <p>16 MR. TAMBE: Objection to the form</p> <p>17 of the question.</p> <p>18 A. Sorry. I want to make sure I</p> <p>19 understand the -- can you repeat it?</p> <p>20 Q. Sure. I mean, just -- is there</p> <p>21 any material about the sale transaction that</p> <p>22 you learned after October in your view? And I</p> <p>23 think you mentioned earlier some -- you</p> <p>24 mentioned earlier something about the</p> <p>25 liabilities. Is there anything other than the</p>
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<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 liabilities that you mentioned earlier that</p> <p>3 you view as significant about the sales</p> <p>4 transaction?</p> <p>5 MR. TAMBE: Objection to the form</p> <p>6 of the question.</p> <p>7 A. As I sit here right now, I know</p> <p>8 some of the work that we were doing in</p> <p>9 connection with the sale motion order that was</p> <p>10 approved by the court on I believe December</p> <p>11 23rd of 2008, we were doing some work to</p> <p>12 understand all the facts and information laid</p> <p>13 out in that motion along with the declarations</p> <p>14 attached. So we were learning probably new</p> <p>15 things at that point about the 7 billion. I</p> <p>16 think there was a fair amount of confusion on</p> <p>17 our part what really happened and there's</p> <p>18 still some confusion, I'm not sure the record</p> <p>19 is completely clear on how and why JPM kept</p> <p>20 the 7 billion and what the basis of that was.</p> <p>21 But we were learning things in that context</p> <p>22 certainly.</p> <p>23 Q. Okay. About the 7 billion.</p> <p>24 Anything else stand out to you?</p> <p>25 MR. TAMBE: Objection to the form</p>	<p>1 P. KRUSE - HIGHLY CONFIDENTIAL</p> <p>2 of the question.</p> <p>3 A. Nothing that we haven't already</p> <p>4 talked about today.</p> <p>5 Q. Okay. And on the liabilities,</p> <p>6 just to bear down a little bit on what you</p> <p>7 learned that was new after October about the</p> <p>8 liability amounts.</p> <p>9 A. We talked about this. I'm not</p> <p>10 exactly clear what the distinction, the</p> <p>11 importance is of October. But -- because I</p> <p>12 think I already testified -- I believe it was</p> <p>13 toward the end of December 2008 when our</p> <p>14 finance team was finalizing the closing of the</p> <p>15 filing date books and records. Issues started</p> <p>16 to bubble up about the amount of the</p> <p>17 liabilities for comp and to some extent for</p> <p>18 cure as well.</p> <p>19 So that created some questions in</p> <p>20 our mind at that point.</p> <p>21 Q. And can you describe what those</p> <p>22 issues were precisely?</p> <p>23 A. I think the -- they're best</p> <p>24 characterized in the February 19th letter that</p> <p>25 Brian Marsal wrote, as I mentioned earlier. I</p>

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2 think that really -- obviously we're asking
3 the question to Barclays help us understand
4 this. Here's what we see. Help us understand
5 this. I think that speaks for itself.

6 Q. Okay. When --

7 MR. TAMBE: Todd, just before
8 you -- just a point of clarification on
9 that. You talked about discovering
10 something new. I assume you're talking
11 about --

12 MR. THOMAS: I mean, I don't want
13 to --

14 MR. TAMBE: I'll ask the question.
15 Fine. We can do it now or I'll ask the
16 question when you're done examining.
17 Although I think there's --

18 MR. THOMAS: Well, is it really a
19 point of your clarification or are you
20 trying to suggest something?

21 MR. TAMBE: The point of
22 clarification is I'm assuming you're not
23 including everything that's learned in
24 the 2004 process that's new. That
25 wasn't known before the 2004 process.

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2 MR. THOMAS: No, anything new.

3 MR. TAMBE: Okay. Well, then,
4 that wasn't clear.

5 MR. THOMAS: I think it was.

6 MR. TAMBE: Okay.

7 BY MR. THOMAS:

8 Q. You understand by new I didn't
9 mean to put a deadline on something.

10 A. I wasn't think of that obviously
11 when I answered the question. There was
12 clearly a lot of information we gained around
13 all these topics in connection the 2004
14 discovery.

15 Q. Um-hum. But, I mean, you knew
16 much -- or you knew the assets that had been
17 transferred. You knew the -- what did you
18 learn that was new other than something about
19 what's in the Marsal letter about the
20 liabilities and about the 7 billion?

21 A. There was never a comprehensive
22 attempt for us to fully evaluate the totality
23 of the deal and the economics of the deal
24 until we started a forensic focus on it in
25 January 2009. So the idea that we knew, you

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2 know, or focused on this issue at some point
3 prior to that, I think that's wrong. There
4 were a lot of other priorities that we were
5 dealing with and this just wasn't anywhere
6 near the early priorities in that first
7 quarter of the administration of the estate.
8 We were gathering facts early on just to lock
9 it down what went over, what didn't go over.
10 We weren't in any way attempting to
11 comprehensively evaluate the Barclays deal in
12 the first quarter of the administration.

13 Q. So what was new was further
14 understanding about the economics of the deal
15 based upon your further focus on it? Or were
16 there any new -- I mean, you knew the
17 assets -- you knew very early on even by
18 before the end of September Weil telling you
19 these are the assets that were transferred
20 over. And you knew the liabilities assumed.
21 And you had -- obviously, you had the sales
22 documents. And so what are the -- what
23 material new facts did you learn about the
24 deal after the end of September?

25 A. You mean other than everything

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2 that's in the Rule 60(b) motion and the
3 attachments thereto?

4 Q. Yeah. I mean facts.

5 A. There are volumes of facts that we
6 learned in connection with that discovery.

7 Q. Okay.

8 A. Volumes of information we
9 gathered. The idea that we somehow knew that
10 in September is in my mind ridiculous.

11 Q. Can you identify some particular
12 facts?

13 A. Yes. Let's get out the Rule 60(b)
14 motion and read it.

15 Q. Okay. But I mean as you sit here,
16 can you -- I mean, are there assets that, you
17 know, went over that you didn't know went
18 over?

19 A. I've tried to describe that there
20 was not a comprehensive valuation of the deal
21 at that -- in those early stages. I've tried
22 to characterize as best I can the context of
23 what we were doing and why. I hope the record
24 is clear on that point but we were not
25 attempting in the first quarter of the

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administration of the estate to do a full-blown valuation of the economics of the deal. There were things that came to our attention toward the end of that quarter that gave us cause for concern and resulted in us putting more focus on it.

Q. Okay. And I understand what you're saying about increased focus and not doing a full-blown economic analysis. I'm just honing in on particular specific facts. There's one thing -- it seems to me you had the facts but you didn't focus on them and do a full-blown economic analysis. Is that a fair summary of what you're saying?

MR. TAMBE: Objection to the form.

A. We had certain limited facts as a result of trying to gain an understanding early on of what went over and what didn't go over. We were not attempting to comprehensively evaluate the detail in its totality at that stage of the administration of the estate. It was not a priority. There were a lot of other things we felt were a higher priority at that state.

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Q. If it had been a priority for you and you had tried to do that analysis earlier at the time end of September, early October, are there any facts about assets and liabilities that you did not have that would have prevented you from doing that analysis?

MR. TAMBE: Object to the form.

A. There was a very difficult process we had for getting any information from Barclays. I think I referred earlier in my testimony to extraordinarily difficult circumstances in getting Barclays to execute under the TSA. That big focus that we had as it related to Barclays as an entity was getting performance of the TSA. We were at Barclays' mercy in terms of needing their employees, their systems, their information, their insight. That was the focus, the immediate most important focus for us early on in the administration of the estate. If we didn't get that right a lot of things were going to go wrong. That was the priority. We weren't focusing on the Barclays deal at that stage. It would have been in my mind

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irresponsible to put an emphasis on that versus the higher priority of getting the information in hand that we needed to minister and run the estate.

Q. I appreciate that. And you're stating that very strongly and it's understood. I just want to know if you didn't think there was any facts in terms of the deal in terms of what assets and liabilities were transferred that you didn't have by the end of September.

MR. TAMBE: Objection to the form of the question.

A. Yes. There were facts that we didn't have about the deal at the end of September. Certainly there were many facts we didn't have.

Q. What if any facts would have prevented you from doing the economic analysis that you're doing now?

A. I will again try to communicate the issue we were dealing with. We weren't getting information openly from Barclays. Shortly after the time that we got the

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information we've seen in these e-mails today where we got the CUSIP level detail of what came over, there were repeated problems in performance under the TSA. It almost resulted in a lawsuit being filed. I mean, we had it -- we had the lawsuit drafted and it was going to be served if we didn't get cooperation. That's the degree to which the performance or the lack of performance under the TSA was a concern of ours.

So if you're talking about facts that we knew or didn't know, there were -- the entire process was breaking down under which we needed to administer to the estate because of what we felt was the failure to perform under the TSA by Barclays. There were significant issues that just administering the estate was becoming -- in an appropriate fashion was becoming an issue.

To put an emphasis at that stage on looking back at a deal, again, that was not the focus at the time. It evolved to be a focus. But we weren't focusing on that in the first quarter.

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Q. And my question is not about focus or whether you should have focused or shouldn't have focused or anything like that. It's just -- I just want to know if you -- if by the end of September you understood that assets that were transferred and the liabilities assumed and the fact that there was a delta between, you know, Lehman marks, whether they were stale or not, and the kind of agreed value of the assets for purposes of the deal, what's referred to in your documents as the discount, you understood those things, correct?

MR. TAMBE: Objection to the form of the question.

A. Yeah. I think we've covered the ground earlier but the characterization of a discount, I believe we were relaying information we got from Paolo Tonucci working for him at the time.

Now, I'm sorry. I've lost track of your question in terms of what you specifically wanted.

Q. I just wanted to make sure -- I

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don't want to get into whether it made sense to focus on this now or later. I understood your testimony. I'm just summing up the things we've gone through and it wasn't that you learned new facts -- you -- strike that. You understood that assets that were transferred as part of the deal and the liabilities assumed including the delta between what one document referred to as stale marks and the value put on those securities by the parties, I mean, you understood all that by the end of September, correct?

MR. TAMBE: Objection to the form of the question.

A. We had certain facts that we had gathered at that time. We had not evaluated those facts in a comprehensive fashion. So we weren't in a position -- if what you're ultimately trying to get at is were we in a position at the end of September to file a Rule 60(b) motion, no, I don't believe we were. We wouldn't have done that without appropriate legal counsel and we hadn't gone down that path until the first quarter of

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2009.
Q. Right. I just -- I'm just focused on the facts. You had the information but you felt you weren't in a position to analyze it at that time because you had other focuses.

A. We had other priorities.

MR. TAMBE: Objection to the form of the question.

Q. Turning to topic number 10, when was to your knowledge a civic liquidation of LBI first considered or planned?

A. Well, presumably if you filed the holding company, as I stated earlier, I think most people would recognize that the broker/dealer is not going to survive forever under those circumstances. So I would have to believe that there is a recognition that a civic liquidation was going to be occurring at some point relatively soon. I don't know the specifics of that. I'm just speaking as a general state of knowledge of analyzing the situation.

Q. Okay. But you're not aware factually when that was, when it was

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considered and so forth.

A. No.

Q. Was Alvarez involved in any discussions leading up to the presentation to the court on September 19th, 2008?

A. No.

Q. Was Alvarez involved in the presentation to the court concerning the December 2008 JPMC settlement approval motion?

MR. TAMBE: Objection to the form.

A. No. Alvarez didn't present to the court in that context. Weil presented to the court on behalf of Lehman Brothers Holdings.

Q. And did the -- LBHI -- did LBHI coordinate with the trustees and the Creditors Committee in connection with that settlement motion?

MR. TAMBE: Objection to the form.

Use of the word "coordinate."

A. Any such coordination, to the extent it happened it would probably be best addressed by Weil because I think it was happening at that level to the extent it was happening.

1
2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 -----x

5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.
10 -----x

11
12 * * *HIGHLY CONFIDENTIAL* * *

13 DEPOSITION OF RICHARD LANDREMAN

14 New York, New York

15 June 16, 2010
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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 31053

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A. No.

Q. So perhaps it's best if we go over some housekeeping rules. It's easiest and things run smoothly if you let me finish a question before responding and I'll try to do the same and wait to follow up with any questions until you have finished your response. If you need to take a break, I just ask that you answer whatever question is pending and then request a break and if it's an appropriate time to break, we'll try to accommodate your request.

And, you know, if you have any questions or don't understand a question, please, you know, feel free to ask me to rephrase it and I'll try to clarify. So with that, let's get started.

Mr. Landreman, can I ask you to tell us a little bit about your position with Barclays?

A. I am a director of Securitized Products Independent Valuation Group. I've been with the firm now for six years. I manage a team of 11 analysts who perform all securitization tasks related to -- I'm sorry,

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all valuation tasks related to balance sheet assets and that fall within the realm of securitized products.

Q. And when you say the Independent Valuation Group, is that also what's known as the Product Control Group?

A. We're a subcomponent of Product Control. We're -- we report in to Product Control, but within the Product Control lines, Independent Valuations has been pulled out as a specialty. I think that was done even before the Lehman acquisition in order to focus valuation resources towards valuation as opposed to line controllers and the accountants who do the daily reconciliations.

Q. Could you explain to me a little bit more about how the PCG group is set up? You mentioned that the Independent Valuation Group is a subpart. What other parts are there of PCG?

A. Well, within Product Control, the -- or the middle office, they do a lot of reconciliation of the P&L for the lines, the businesses. So, for example, there may be, for

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securitized products, there will be a group of controllers who manage the daily balance sheet P&L process for the business and then, on a monthly basis, that group is tasked with having the assets on the balance sheet independently reviewed by a pricing expert to make sure that the general ledger that's being reported and published is reviewed.

Q. And are there any other components of PCG other than reconciliation of P&L as being one group and then your Independent Valuation Group?

A. I mean, there's a Controls Group to make sure that the controls that are set in place are all managed, there's the Valuations Group, there's a Tax Specialty Group and whether those are part of Financial Control or Product Control. But every -- every business has its own line controller groups.

Q. And when you say every business, how is it broken down?

A. Well, by product specialties like commodities, securitized products, you know, agency debt, agency mortgages, fixed income,

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credit. All the different businesses that the bank's involved with.

Q. And are those official divisions within PCG by specialty group?

A. I mean, there would be subject matter experts who know those assets and those businesses that would be managing the processes for each group.

Q. And is it divided between Global PCG as opposed to US PCG?

A. It's a big company. They're all over. Some businesses are global. Some businesses are local. It depends upon the specialty.

Q. And in your six years with Barclays, have you been in the same role the entire time?

A. With the growth of the mortgage business within Barclays during the time that I have been there, my role has gone from price testing to managing larger groups, a larger group of analysts who perform valuation on different mortgage-related assets.

When I joined the firm, there was only an agency mortgage desk. We bought a mortgage servicer. We bought a sub-prime originator.

3 (Pages 6 to 9)

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Q. And what would be the difference between price testing as opposed to valuation on different mortgage-related assets?

A. Well, I mean, if I'm giving -- we would always call price testing a theoretical process where the trader gives us a mark and we test that price to see if it's valid.

Q. And by contrast, what would valuation on different mortgage-related assets be?

A. Well, I mean, we'll be performing a valuation on the mortgages. It's the matter is am I valuing mortgages or am I performing a test of the trader's price.

Q. And in the instance where you're valuing mortgages, is that after the trader has already done it himself or in lieu of the trader doing it himself?

A. Well, when we perform a valuation, it would be the same process regardless of whether I have a trader's price or not, so the way we price or we value securities.

Q. I guess what I'm trying to understand is when would you have a trader's price and, therefore, engage in price testing as opposed to

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when would you and your group engage in valuation of mortgages in the first instance?

A. I'm not sure that -- what you're asking on that question, because the valuation is really -- it's the same. It's we're performing a valuation of a security. The question is, you know, do I have a data point from a trader who is responsible for this to -- to review.

Q. Following up on that, when would you have a data point from a trader to review as opposed to when would you not?

A. We would have a data point to review if the traders own the assets because they're required to mark their portfolios to market on a daily basis.

Q. And so would you, in the event that it's a new position, be the person or the group to value it in the first instance?

A. No, the trader would. Whatever the trader actually acquired the asset for or traded it for.

Q. And so you would be valuing it subsequent to the acquisition of it at whatever

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price the trader --

A. Right, we would be given the population at the end of the month and this is a portfolio and these were the trader's marks at the time.

Q. And you would engage in a ground-up valuation of the securities as opposed to just a theoretical price testing in that instance?

A. Correct. Well, in all instances, the valuation --

MR. THOMAS: Go ahead and let her finish her question. You're starting to anticipate the finish of her question. But pause and let her finish her question, please.

THE WITNESS: Okay.

Q. It might help just to have a document in front of us.

I'm going to put in front of you what we have premarked as 799B.

(Exhibit 799B, Exhibit C, described as Bio for ABS, marked for identification, as of this date.)

Q. Mr. Landreman, I have put in front of

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you what I will represent to you was attached as an exhibit to a brief filed by counsel for Barclays in opposition to a motion we had filed to exclude Barclays' expert, Professor Paul Pfleiderer.

Have you ever seen this document before?

A. This document in front of me, yes.

Q. And when did you see this document?

A. I mean, I have a bio for my group and I've had this and the bio for my group always in existence because I always have qualifications of my staff available for audit and regulatory reviews. So this is a standard document that we normally have.

Q. And is this document itself the bio for your group that was already in existence?

MR. THOMAS: Objection to form.

A. I'm sorry?

Q. Perhaps let me rephrase that. Did you assist in preparing this document for purposes of this litigation?

A. This document was in existence for at least for my group prior to this litigation. So

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2 it wasn't prepared specifically for this
3 litigation. It was a standard document that we
4 would have on file.

5 Q. And when you say for your group, do
6 you mean the people that fall in the first two
7 pages under I guess 1(A), Fixed Income APS, and
8 1(B), Fixed Income -- I'm sorry, I just mean 1A.

9 A. Just 1(A).

10 Q. And if you will look at the top of the
11 document, it says "Global Independent
12 Valuations." Is that the name of your group
13 within the Product Control Group?

14 A. Correct.

15 Q. And is that group run by Marcus
16 Morton?

17 A. Yes, he is -- yes, it is.

18 Q. And do you directly report to Mr.
19 Morton?

20 A. In the U.S., there's a U.S. head of
21 Valuations, Charles Utley, and Charles reports
22 directly to Marcus.

23 Q. And so would it be safe to say that
24 both you and Mr. Teague, who on this list fall
25 under Morton, actually have another layer

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2 between, and that would be Mr. Utley?

3 A. Correct. At the time of the Lehman
4 valuation, we were reporting directly to Marcus.
5 Charles was with the firm, but not in his role
6 as U.S. head of Valuations.

7 Q. When you say at the time of the
8 acquisition, does that include throughout the
9 period of time thereafter that you were valuing
10 the assets acquired?

11 MR. THOMAS: Objection to form.

12 Q. Go ahead and answer.

13 A. Charles was not involved in the
14 valuation of the opening day balance sheet for
15 or in supervising my group at that time.

16 Q. Could you tell me a little bit about
17 what products would be covered under your group,
18 which appears to be titled "Fixed Income ABS"?

19 A. We would be doing agency
20 mortgage-backed securities, agency
21 mortgage-backed securities CMOs, collateralized
22 mortgage obligations, all non-agency mortgage
23 structured products, including all day, option
24 ARM, prime, non-Agency RMBS, CDOs, CLOs that
25 were ABS or mortgage-related.

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2 CMBS, commercial mortgage-backed
3 securities, asset-backed securities for
4 franchises, credit cards, student loans, auto
5 loans, et cetera.

6 Q. Would your group also be responsible
7 for munis?

8 A. No, they would not.

9 Q. How about corporates?

10 A. We would not be corporate or agency
11 debentures or Treasuries.

12 Q. And by that, would another name be
13 rates?

14 A. That would be under rates, yes.

15 Q. And how about options?

16 A. That would not be.

17 Q. Futures?

18 A. No.

19 Q. Equities?

20 A. No.

21 Q. With respect to the acquisition of
22 assets from Lehman, what asset classes did your
23 group have direct responsibility for
24 independently valuing?

25 A. Everything I mentioned earlier.

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2 Agency mortgages, agency CMOs, non-agency,
3 mortgage-backed securities, franchise ABS,
4 credit card ABS, student loan ABS.

5 Q. And is there a specific front office
6 desk or department that corresponds with the
7 assets that you are responsible for valuing?

8 A. Yes. There's a front office flow desk
9 for various assets, including agency mortgages,
10 non-agency mortgages, all the asset-backed
11 securities, and we also had some proprietary
12 trading desks in place as well that may have
13 owned mortgages that would have been performing
14 valuations that we reviewed their prices as
15 well.

16 Q. And if we could break it down a little
17 bit more in terms of, is it one desk that would
18 cover all of them? Is it various desks for each
19 of the respective assets?

20 A. Well, as we manage the businesses, so,
21 for example, Tom Hamilton, who owns the
22 securitized product business, has several
23 traders who manage desks for him, so I will have
24 a trader who only trades agency pass-throughs,
25 who only trades agency CMOs, who only trades all

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day mortgages. So you can break it up by product specialists and there's a managing director or a director who runs that desk for that business.

Q. And in the process of your group valuing the securities acquired in the Lehman transaction, would you work hand-in-hand with the traders in valuing them or are they independent processes?

A. They're independent processes.

Q. And are they undertaken simultaneously or concurrently?

A. I'm sorry, I don't --

Q. I'm just trying to understand, the processes that are independent, are they being undertaken one after the other or at the same time?

A. Well, the business is required to mark their books on a daily basis, so they mark to market every day. We're mandated to test on a monthly basis.

Q. Now, this brings us back to something that I think I wasn't understanding from earlier line of questions. The difference between price

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testing as opposed to ground-up valuation.

When you say that your group would normally test on a monthly basis, do you mean price test or do you mean independently value on a monthly basis?

A. There really is not a difference. I have to perform a valuation in order to conduct a test, so I have to value the securities.

Q. Are there instances where price testing wouldn't involve conducting an independent valuation and might be some other form of testing?

MR. THOMAS: Objection to form.

A. I mean, there could be, you know, some tests that are performed that maybe are like a proxy or a benchmark comparison to similar assets.

Q. I apologize. I'm still not understanding the distinction you were drawing earlier in terms of the evolution of your role and where you made the distinction between price testing as opposed to valuation of the mortgages, and if you could explain to me what the difference is between what you were doing in

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your earlier years at Barclays, price testing as opposed to what you were doing in your later years in terms of valuations.

A. Well, early in my career, I was the primary analyst performing the valuation of all of the agency and non-agency mortgages. It was a smaller business when I first started, and the businesses have all grown since I've been there.

So when we acquired the mortgage servicer, I also brought on two staff members to perform valuation of the mortgage servicing rights and also assist in other asset categories that were growing and becoming critical within my world.

So I had a staff as of, you know, two years into it, and then, as more and more mortgage product was coming on and the credit crisis was starting to evolve, there was a centralization of all mortgage products into one group. So that all fell under me, so all of the sub-prime mortgages, we also had sub-prime whole loans when we acquired Equifirst down in North Carolina.

So, as the business grew, my group

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grew, and then we also consolidated all mortgage analytics in one group. Now I manage a group of 12 people, the people that I brought in, I built the team, handpicked the analysts, and now it's really, similar to how the businesses are structured, I have specialists for each group and that person would conduct the price testing or the valuations for those assets and they would perform that regardless of whoever owns the assets. Because you may have some proprietary trading desks that might own similar assets to what a flow business would be.

Q. And in terms of the business growing, which asset classes were not currently within Barclays' portfolio at the time of the Lehman acquisition that, subsequent to it, they had acquired?

MR. THOMAS: Objection to form.

Go ahead.

A. The only category that I recall would have been the franchise ABS. We didn't have a large presence in the franchise ABS for my world.

Q. How about Alt A?

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A. We had that business.

Q. And were there dedicated people within your group for each of the categories of ABS covered?

A. There would be people who could cover multiple categories. So like Victor, Victor Tian would be my Alt A specialist. He was hired from American Home Mortgage. He worked on the trading desk at American Home Mortgage structuring Alt A securities. I had worked with Victor seven years ago in my prior life as a consultant on a Freddie Mac, so I'm aware of his expertise in the product space.

Q. Why don't we continue down the list. Under Victor, and I apologize if I butcher any names here, what would Usman Babar cover?

A. Usman was a Lehman employee, so he was still in the integration period while we were doing the valuations. He now does like asset-backed credit default swaps and illiquid sub-prime and manages a portfolio valuation which he distributes to people in the group.

Q. And were former Lehman employees that went over to Barclays, were they involved in the

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valuation of the securities that were acquired?

A. No.

Q. Were they consulted in any way in the process of valuing securities?

A. To a very limited extent.

Q. And what extent would that be?

A. Well, Usman was, you know, familiar with who was doing some of the price testing of the assets, but on my initial interviews with certain people within the firm, I felt that we had a superior process to the valuation methodologies that were being employed within the Product Control space and we only hired two people out of their group.

Q. And were those two people Usman and Jay Park?

A. Yes.

Q. And is that reflective of all that was hired or all that remained?

A. All that was hired.

Q. So let's just continue down the list. Richard Beame?

A. Richard Beame has been with Barclays doing primarily all commercial mortgage-backed

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securities and commercial whole loans.

Q. And was he the primary person responsible for valuing any CMBS that was acquired from Lehman?

A. No.

Q. And who would have been that person?

A. That would have been Victor Tian and myself. We didn't receive any investment -- I mean any quality CMBS. Most of this was mapping to one of the index for defaulted CMBS.

Q. And moving down the list, Scott Ginsberg, what product did he cover?

A. He would have been doing the agency mortgages. He had been with me for four years at that point.

Q. And was he the primary person responsible for valuing any agency mortgages acquired from Lehman?

A. Yes. Under my supervision.

Q. Moving down the list to Vincent Pini, is -- would you tell me what his area of specialty is?

A. His area of specialty would have been sub-prime mortgages and mortgage servicing

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rights.

Q. And did he have primary responsibility for valuing any of the securities that were acquired from Lehman?

A. No. He would have been a participant in the analysis.

Q. And did he participate in connection with any specific category?

A. Mostly with the sub-prime mortgage-backed securities.

Q. And could you be a little more specific when you say sub-prime? Would those fall within a specific asset category --

A. The non-agency mortgage-backed securities.

Q. And who else would have been involved in the valuation of the non-agency mortgage-backed securities?

A. Jessica Wong. There was a large portion of securities that she had a specialist in -- specialist's knowledge in, which were like net interest margin securities and post-NIM, net interest margin residuals, which were very popular in the sub-prime market which we

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2 received from Lehman, which we looked to see if
3 there was any value to those securities because
4 we had already written off nearly all of ours to
5 zero at that time. So when we got those
6 securities, we wondered what they were.

7 Q. Was anybody else within your group
8 involved in the valuation of non-agency
9 mortgage?

10 A. Imran Ansari would have been involved
11 in the CDOs and CLOs that would have been able
12 to have been modeled within our group.

13 Q. I got confused there because I think
14 he's the only one whose name is backwards.

15 A. No, Imran Ansari. Ansari is his last
16 name.

17 Q. The others are first, last.

18 A. Oh, okay.

19 Q. So, okay. I got it.

20 Anyone else for non-agency mortgages?

21 A. That should be about it.

22 Q. And who had primary responsibility for
23 the valuation of non-agency mortgages?

24 A. Victor Tian.

25 Q. I think we've covered everybody but

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2 perhaps the last name on the list.

3 A. Eli Bloshtein.

4 Q. Yes. And did he have any involvement
5 in valuing any of the securities?

6 A. Minimal. He would have been -- he's a
7 junior analyst who was part of a finance
8 rotation analyst program. So he would have, if
9 anything, done formatting of reports and
10 learning how to value securities.

11 Q. Earlier when I had asked you about
12 whether any of the former Lehman people who
13 joined your group had any involvement in valuing
14 any of the assets acquired, you had said no but
15 mentioned some interviews at the outset of
16 valuing. And perhaps I'm misstating that.

17 My question really is, at the outset
18 of the valuation process, did you conduct any
19 interviews of any former Lehman employees?

20 MR. THOMAS: Objection to form.

21 A. No, I was -- I returned from vacation.
22 I was handed a group of securities that needed
23 to be valued and I assigned my team the
24 responsibility of commencing the valuations, and
25 we were working on that for a few weeks before I

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2 actually met anybody from Lehman.

3 Q. So, in the process of valuing any of
4 the securities for which you and your team had
5 responsibility, you did not use any information
6 obtained from Lehman or any information based
7 off of interviews with anybody from Lehman?

8 MR. THOMAS: Objection to form.

9 A. No.

10 (Exhibit 800B, a document bearing
11 Bates Nos. BCI-EX-(S)207964 through 207969,
12 with attachment, marked for identification,
13 as of this date.)

14 Q. Mr. Landreman, I'm going to hand you
15 what has been premarked as Deposition Exhibit
16 800B.

17 MR. THOMAS: When you're saying
18 "premarked," they have been premarked for
19 this deposition? They haven't been
20 premarked in other depositions?

21 MS. CARRERO: Yes, thank you for
22 clarifying. In an effort to save time, I
23 had done it before we started.

24 Q. Let's take a moment to look through
25 the document.

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2 A. Okay.

3 Q. If I could just direct your attention
4 to the e-mail at the top from Mr. Teague to you,
5 among others, dated October 27. Do you see
6 where in that e-mail it starts, "Each
7 spreadsheet should back up one of the tabs in
8 the attached file," which is followed by a list
9 of asset classes and names next to it?

10 A. Yes.

11 Q. Do the names next to each of these
12 asset classes fairly reflect the people that
13 were working on the valuations of each of those
14 asset classes?

15 MR. THOMAS: Objection to form.
16 Foundation.

17 A. I really can speak to the areas that
18 I'm familiar with, which would be the PMTG and
19 RMBS, which it -- say yes. I would need to see
20 what he -- in terms of rates, I would only be
21 involved in the rates as it related to their
22 mortgage involvement, not the fixed income,
23 Treasuries or agency debentures.

24 Q. Using the asset class names that we
25 had used before, what would PMTG cover?

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A. Everything in my world.

Q. Could you be more specific?

A. Agency mortgage-backed securities, agency collateralized mortgage obligations, non-agency, all day non-agency sub-prime, non-agency ABS, credit card securitizations, auto securitizations, student loans, franchise securitizations.

Q. And so would it be fair to say the only thing not covered under PMTG that your group is also responsible for is RMBS?

MR. THOMAS: Objection to form.

A. I'm sorry, could you repeat that?

Q. My question is, based off of the division within Deposition Exhibit 800B of RMBS and PMTG, I'm asking, does that reflect what your group would cover?

A. Does -- so does the listing of the product categories as defined by Sean in his e-mail coincide with the products that I would price test?

Q. Exactly.

A. As I said, yes, and PMTG, the assets in PMTG that were related to my business would

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Q. And by Sean, you mean Sean Teague?

A. Yes.

Q. And how about Scott, do you know who Scott is?

A. Yes. Scott would be reference to Scott Ginsberg, and he would have been doing the agency mortgage-backed securities.

Q. So some securities within rates would fall under your group's responsibilities; is that correct?

A. Only if they were mortgage-backed securities.

Q. And the term "agency" here reflects agency mortgage-backed securities?

A. I don't know that. You should ask Sean what he was referencing.

Q. And RMBS next to your name, there's Victor and Scott. Would that be the Victor and Scott that were referenced on Deposition Exhibit 799B?

A. Correct.

Q. Kevin Jhea and Heidi Su, would those be individuals within Sean Teague's group?

A. Correct.

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be price tested or valued in my group; and if they held corporates or if they held munis or they held equities, we would distribute those to the subject matter experts who would do the valuation of those specific instruments for that portfolio.

Q. So you cover some asset categories that would fall under PMTG, but not all asset categories that fall under PMTG?

A. Correct.

Q. And your group would cover all RMBS; is that correct?

A. Correct.

Q. And while your name is next to "Rates," your group would not ordinarily cover rates; is that correct?

A. Correct.

Q. And going down the list, starting with rates, next to your name there's a name E-L-L-Y. Do you know who that is?

A. Yes. That's Elly Pu.

Q. And is Elly Pu within your group?

A. She was in Sean's group working on the municipals valuations.

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Q. And how about Mr. Washtell?

A. Mr. Washtell is a director in charge of equities. He would be my counterpart in the equities world.

Q. And did he have primary responsibility for valuing the equity positions acquired from Lehman?

A. It's my understanding that he did, but you may want to check with him just to make sure.

Q. And are you aware of any other asset classes for which he had responsibility valuing securities from the Lehman acquisition?

A. I couldn't say with certainty what other asset categories he covers.

Q. Mr. Landreman, I'm putting before you what has been marked Deposition Exhibit 801B. (Exhibit 801B, a document bearing Bates Nos. BCI-EX-(S)201185 through 201187, marked for identification, as of this date.)

Q. Can you take a moment to review it.

If I could direct your attention to the attachment to this document, and --

A. Okay.

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Q. The very left-hand column has a list of asset classes, and then a column or two columns over, there are lists of names under a column titled "PCG Owner." Do you see that?

A. Yes, I do.

Q. Are you familiar with most of the names on this list?

A. Yes, I am.

Q. Can we just take a look at the "U.S. Agency CMO" line as well as the "U.S. Agency Pool" line, there's an individual by the name of Joe Kaczka. Could you tell me who he is?

A. Joe Kaczka is the controller for the businesses, the line controller for the businesses. He's responsible for the day-to-day middle office operation of the balance sheet reconciliation, the P&L reporting.

Q. So this would tie back to our earlier discussion about the different subgroups within Product Control and the functions of controller as opposed to your group, which did independent valuations?

MR. THOMAS: Objection to the form of the question. Lack of foundation,

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especially with respect to the document.

A. My understanding is that the names here were the line controllers for the respective businesses that were on this spreadsheet.

Q. And these individuals were not within the Valuation Group, whether it be yours or Sean Teague's; they work for a different part of PCG; is that correct?

MR. THOMAS: Objection to form.

A. Correct. These were the line controllers.

Q. Are any of these line controllers former Lehman employees?

A. I don't know.

Q. Can you tell me a little bit about -- can you tell me, starting with the non-Agency RMBS, how in the normal course you and individuals within your group would go about valuing a security of that class?

MR. THOMAS: Objection to form.

A. For the non-Agency RMBS, as part of our monthly process, we have full transparency to see what our trading desk is doing, so we see

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all of the positions that they buy and sell on a daily basis. So we monitor those trades and we use those trades as observable benchmarks to produce a spread matrix or a valuation input from those observable trades.

Victor manages that process. So, as we're benchmarking our trades, we'll solve for, using the trade price on that day, we'll solve for a spread. We'll look at the characteristics of that bond and provide certain measurements in terms of amounts of credit support, current ratings, current delinquency pipelines of that specific bond so we could take the trade price from that bond and make a rationalization as to what a comparable bond might trade.

So we track all of the spread matrices. We look at all of the historical data. We do also review our competitor spread publications for standard market research. We do source and obtain vendor prices to see if there's any reliability in some of their marks or their indications.

So but it's really on a bond-by-bond basis we will review each bond and we will look

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to see what the current collateral performance is of the underlying bond. We'll apply a spread to that from an observable trade matrix and perform a valuation and review that in conjunction with our expectations of where we think things would trade or how we currently price things in our existing books and records.

Q. And is there a formal policy and procedure that governs what steps are taken in the valuation process of non-Agency RMBS?

A. Yes. There was a policy and a procedure that's been published and documented and reviewed by internal audit, by PwC. The entire process is regularly audited by our external auditors and also our internal auditors and other regulatory agencies.

(Exhibit 802B, a document bearing Bates Nos. BCI-EX-297092 through 297113, marked for identification, as of this date.)

(Exhibit 803B, a document bearing Bates Nos. BCI-EX0297114 through 297134, marked for identification, as of this date.)

(Exhibit 807B, a document bearing Bates Nos. PwC-BarCap45788 through 45792,

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2 for securitization purposes, so the majority of
3 this policy was around the valuation of
4 commercial whole loans, and then there was a
5 subsection there for commercial mortgage-backed
6 securities.

7 Q. Would this policy have governed any of
8 the commercial mortgage-backed securities that
9 were acquired from Lehman?

10 A. To some degree. Most of the
11 commercial mortgage-backed securities that we
12 received from Lehman were so bad that we would
13 have put them at the bottom of the scale in
14 terms of you really had to look at the
15 performance of these individual securities and
16 make some judgment around if you were going to
17 get your principal back and how long the
18 interest would be paying, and we looked through
19 each one of these positions bond-by-bond to
20 review the valuations.

21 So I think our policy would state in
22 there that we would look at non-investment grade
23 loan securities, or but it would -- it would
24 cover, you know, what to do to price these
25 securities.

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2 estimate of where the security would trade in
3 the market.

4 MR. THOMAS: To the extent we're going
5 to ask the witness questions about the
6 document, I just ask the witness be allowed
7 time to review the document.

8 MS. CARRERO: That's fair. Take as
9 much time as you need to take a look at it.
10 (Document review.)

11 A. Okay. So within this policy, 5.1 for
12 secondary trading, secondary bond testing, bond
13 price testing methodology is generally
14 consistent with how we value those securities
15 that we were given that would have fallen under
16 this policy.

17 Q. And would it be accurate to say that
18 most of the CMBS securities that were acquired
19 from Lehman were valued using prices from late
20 September reflecting sales to desks within
21 Lehman?

22 MR. THOMAS: Objection to form.

23 A. We didn't sell anything to Lehman.

24 Q. My apologies. I misphrased.

25 Do the prices used for purposes of

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2 Q. So just so I understand, it does or it
3 doesn't cover the CMBS securities that came over
4 from Lehman?

5 A. It's general guidelines for how we
6 should be pricing securities. When we created
7 this policy, we never had the low-quality assets
8 that were given to us as part of the Lehman
9 asset group.

10 Q. So some of the assets that were
11 acquired from Lehman were not valued according
12 to the policy and procedures because they were
13 of a lower grade; is that what you're saying?

14 MR. THOMAS: Objection to form.

15 A. They were generally poorly performing
16 securities that should have been priced to this
17 policy or would have been priced in a very
18 similar methodology.

19 Q. So if they weren't priced to this
20 policy, what policy would they have been priced
21 according to?

22 A. They would have been priced upon
23 observable trade data, which is part of our
24 policy, is to use observable trade information
25 and other proxy data to provide the best

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2 Barclays' acquisition accounting for CMBS
3 reflect internal sales prices to desks within
4 Barclays?

5 MR. THOMAS: Objection to form.

6 A. The prices that my group created
7 reflected what we felt were the best estimates
8 of fair value at the time.

9 Q. And how do those best estimates of
10 fair value correspond, though, with 5.1 of the
11 CMBS policy in Deposition Exhibit 804B?

12 A. Well, for investment grade CMBS, we
13 would look at spreads that are currently
14 available in the marketplace, and for
15 non-investment grade bonds, we would -- we know
16 that these are much less liquid and we have
17 proxies that we can benchmark to, and also we
18 can model these specific positions and use
19 required yields that we would have expected or
20 we can proxy to comparable bonds in our own
21 books and records, if we had any at those
22 levels.

23 Q. Perhaps we should take a step back,
24 because what I'm not understanding is, are the
25 prices at which the securities were sold to

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2 various desks within Barclays the prices that
3 your group came up with using this section of
4 Barclays' CMBS policy, or were you price testing
5 the prices at which they were sold to Barclays'
6 desks?

7 A. The desks --

8 MR. THOMAS: Objection to form.
9 Go ahead. Pause after the question.

10 A. The desks would have determined the
11 values that they would be willing to acquire
12 assets at.

13 Q. And so what price was your group
14 coming up with?

15 A. The prices that we calculated and
16 published as part of the record.

17 Q. Could you be more specific when you
18 say "part of the record"?

19 A. I mean, we published the prices that
20 we tested to and our -- all of the support
21 around the prices we created, and the values
22 that we created were part of the working papers
23 that we provided.

24 Q. Specific to the acquisition balance
25 sheet and the prices used therein for CMBS

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2 securities, did you price test those prices?

3 A. I would have to look at the specific
4 securities that you're talking about and see
5 those prices, because I know in my working
6 papers we would have defined how that price was
7 derived.

8 Q. To save us all a lot of time, I mean,
9 I can go and pull out those working papers, but
10 if on the acquisition balance sheet a price at
11 which the security was sold to a desk within
12 Barclays was used, did you price test that
13 internal sales price?

14 MR. THOMAS: Objection to form.

15 A. We would have had our price as well or
16 we would have reviewed the trade price for
17 reasonability, yes.

18 Q. So there may have been two prices:
19 One that your group generated according to your
20 policies and procedures, and another price that
21 would reflect the price used for purposes of
22 acquisition accounting based on the internal
23 sales price?

24 MR. THOMAS: Objection to form.

25 A. If there was a dialogue around a

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2 trader's mark and it was different than our
3 mark, we would have documented the reason or the
4 rationale why those prices were different and
5 why we would have accepted one price over the
6 other.

7 Q. So there was a process under way to
8 compare the prices at which positions were sold
9 to desks within Barclays and compared them to
10 the prices that your processes had generated
11 based on your policies and procedures?

12 MR. THOMAS: Objection to form.

13 A. It was my understanding that there was
14 a PMTG management book where all of the assets
15 came to and they distributed the assets to the
16 desks. So the prices that the PMTG management
17 line items were using I thought were my prices,
18 but I don't know that for sure.

19 Q. Normally would the prices that you
20 price test be the ones that would roll up into
21 any financial statements that are generated by
22 the firm?

23 A. No, they would not.

24 Q. And what prices would ordinarily roll
25 up into financial statements?

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2 A. The traders' marks.

3 Q. Would they only roll up into financial
4 statements after your group had price tested the
5 traders' marks?

6 A. Correct.

7 Q. Where price testing shows a difference
8 between the traders' marks and where the
9 policies and procedures show the marks should
10 be, what ordinarily was the next step?

11 A. Well, there are a full set of variance
12 procedures as to what is a required review for a
13 variance breach. So we define by product
14 category and by asset quality limits that we
15 review price testing within.

16 If a specific position falls outside
17 of a certain range of variance, the analysts
18 would be required to go and get additional
19 detail or supporting assumptions to make sure
20 that, you know, we can either confirm or deny
21 whatever that price is.

22 There's a full review, and then at a
23 business level, we also present all of the
24 results to the traders and we also present it to
25 senior management as well if there are any

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2 issues that require escalation.

3 Q. And is that process usually an
4 informal one with various e-mails being
5 exchanged, or would you characterize it as more
6 formal?

7 A. It's been more formal. There's --
8 there was usually a price testing file that gets
9 produced, and management is reviewing the
10 results. We would always send the business, for
11 example, Tom Hamilton's business of securitized
12 products, we would send him all of our price
13 testing results broken out by business and he
14 would review the file and acknowledge that he's
15 reviewed the data.

16 Q. And did that happen with the
17 securities that were acquired from Lehman, would
18 there be a price testing file for each CUSIP
19 where there was any sort of deviation?

20 A. Well, as we said, there was no trader
21 marks on the positions when we initially
22 received the portfolio, so we were asked to
23 provide a fair value on those positions that
24 were in that portfolio.

25 Q. In the instance of where internal

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2 sales prices were used to reflect the fair value
3 of the positions, would there have been any sort
4 of price testing file if those internal sales
5 prices deviated from --

6 A. Once the positions are in that
7 trader's books, they would go through the
8 standard policies and procedures and processes
9 that we would normally price test.

10 MR. THOMAS: Go ahead and make sure
11 you let her finish the question. You're
12 starting to cut her off again.

13 Q. So any of the positions that were
14 priced based off of internal sales prices, there
15 would be a price testing policy they would go
16 through, and if there were any differences, a
17 file would exist for those CUSIPS; is that
18 correct?

19 MR. THOMAS: Objection to form.

20 A. Once the securities are in a
21 portfolio, we would perform a monthly price test
22 on that portfolio.

23 Q. So in this instance, if a September
24 30th internal sales price was used to price
25 securities acquired from Lehman, at what point

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2 would that price be tested by your group?

3 MR. THOMAS: Objection to form.

4 A. A September 30th price would be priced
5 when we received the file within four to five
6 business days after day one once the books and
7 records are closed or once the population has
8 been confirmed.

9 Q. So do you recall whether or not there
10 was a process under way to price test all of the
11 securities at which an internal sales price was
12 used four or five days after they were sold to
13 the desks or recorded as sold to the desks?

14 MR. THOMAS: Objection to form.

15 A. In the circumstance you're describing,
16 that portfolio would have been part of that
17 trader's books and records, so I would have had
18 those prices and whatever prices they assigned
19 it to those -- that portfolio would have been
20 the price I would have tested.

21 Q. We're talking about a large number of
22 CUSIPS here. Do you recall that process of
23 price testing a number of securities that were
24 sold to desks within Barclays which constituted
25 internal sales a couple of days after they were

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2 sold to those desks?

3 A. We price tested the portfolios and the
4 assets that came across at multiple points in
5 time during the review. So if there was a group
6 of assets that were sold at month-end, we would
7 have price tested those file -- those assets as
8 well, and if they booked those at the sale
9 prices, we would have price tested the books and
10 records as the sale prices.

11 Q. And based on your testimony, you're
12 saying that process would have taken place a
13 couple of days after the internal sale; is that
14 correct?

15 MR. THOMAS: Objection to form.

16 A. We received the trader's books and
17 records reconciled to the general ledger from
18 the line controllers usually within two to three
19 business days after the month-end.

20 Q. And if there were any deviances
21 between the sale price and what your group
22 thought the fair value was, would that have been
23 conveyed for purposes of the acquisition
24 accounting?

25 A. If there was a material variance or a

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2 breach of a price testing limit threshold, we
3 would have reviewed those positions on a
4 case-by-case basis with the traders who marked
5 the positions, and if we were unable to resolve
6 a discrepancy, we would escalated that to senior
7 management or we would have had adjustment made
8 to books and records to reflect a change in the
9 trader's marks, but the trader's marks are the
10 books and records once they acquired the asset.
11 Q. And do you recall that material
12 variances were determined and there were any
13 discussions with front office individuals or
14 with Finance in terms of preparing the
15 acquisition balance sheet?
16 MR. THOMAS: Objection to form.
17 A. There were lots of discussions, but
18 across every asset category. The markets were
19 highly illiquid and there were lots of really,
20 really bad bonds that we were given that we had
21 never seen a portfolio of this low quality in
22 our experience. So there were lots of questions
23 around how to value some of the most illiquid,
24 toxic assets that we received.
25 Q. While the majority of the PMTG assets

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2 (Exhibit 805B, a document bearing
3 Bates Nos. PwC-BarCap46090 through 46102,
4 marked for identification, as of this date.)
5 (Exhibit 806B, a document bearing
6 Bates Nos. BCI-EX-297183 through 297200,
7 marked for identification, as of this date.)
8 Q. Mr. Landreman, I'm putting before you
9 what have been marked Deposition Exhibits 805B
10 and 806B. I will identify them for the record.
11 805B is titled "Barclays Capital
12 Provisioning Policy Statement," dated December
13 2008. Cover page Bates number is PwC-BarCap
14 00046090. And Deposition Exhibit 806B is titled
15 "Product Control Price Testing Policy," dated
16 May 2009, and Bates number on the cover page is
17 BCI-EX-00297183.
18 Would you take a moment to review the
19 first, which is Deposition Exhibit 805B.
20 (Document review.)
21 Q. Please let me know when you're ready.
22 A. I think I'm ready.
23 Q. Okay. Have you ever seen this
24 document before?
25 A. Which document are you referencing?

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2 appeared to be valued on the acquisition balance
3 sheet at internal sales prices, there are some
4 that are not. Would those be situations where a
5 material variance was discovered?
6 MR. THOMAS: Objection to the form.
7 A. I don't know. I would have to see the
8 cases and points, the specific positions.
9 MR. THOMAS: We've been going for
10 about an hour and a half now. I don't know
11 if this is a good time for a break.
12 MS. CARRERO: That's fine.
13 (Recess; Time Noted: 11:03 A.M.)
14 (Time Noted: 11:10 A.M.)
15 BY MS. CARRERO:
16 Q. Mr. Landreman, if you could just turn
17 your attention back to Deposition Exhibit 804B.
18 Just one last question before we move on from
19 this document.
20 Is this the policy and procedure that
21 was in place at the time of the Lehman
22 acquisition?
23 MR. THOMAS: Objection to form.
24 A. This should have been the policy and
25 procedure that was in process, yes.

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2 Q. Deposition Exhibit 805B.
3 A. 805B. No, I have not.
4 Q. Have you seen similar earlier or a
5 later version of such document?
6 MR. THOMAS: Objection to form.
7 A. No, I have not.
8 Q. Are you aware of any policy in place
9 at Barclays related to valuation adjustments to
10 securities?
11 A. Yes. Normally, valuation adjustments
12 in terms of provisioning of reserves are
13 calculated for the asset categories that they're
14 applicable to, which mostly do not fall in my
15 world.
16 Q. In what world do they fall?
17 A. Fixed Income and Credit.
18 Q. And why do they not fall within your
19 world?
20 A. The majority of the assets in the
21 securitized products world tend to be cash bond
22 basis, so there's -- the traders would be long
23 the position. There's not a concept of being
24 long or short the majority of the positions. So
25 they may be hedging the positions, but they

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2 would be taking a position in that bond. So
3 there would be a cash bond with a price to that
4 bond.

5 Q. If you could just turn to page 4 under
6 2.2, "Classification of Adjustment Type," the
7 last sentence of the first paragraph says, "Fair
8 value adjustments may arise for three main
9 reasons," and then it's followed by three bullet
10 points: "Model uncertainty or adjustment;
11 market data uncertainty or adjustment;
12 transaction booking reflecting amended or
13 simplified economics."

14 Is it fair to say that the securities
15 that your group covers don't fall within any of
16 those three reasons?

17 MR. THOMAS: Objection to form.

18 A. They would. However, we are mandated
19 to report fair value on our balance sheet, so
20 reserves or adjustments for cash bonds, we would
21 show that these positions are fair value assets.
22 So ...

23 Q. Are the fair value adjustments that
24 are being discussed here different than the
25 liquidity adjustments or haircuts that were

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2 see it says, "Product Control, Price Testing
3 Policy, Date: May 2009"; is that correct?

4 A. Correct.

5 Q. Is this the same policy that was in
6 place at the time of the Lehman transaction?

7 A. This is a global policy for our
8 Central Price Testing Group, so this would be
9 the highest level of price testing policy. So I
10 believe this would have been in place. I don't
11 know for certain because I had my own regional
12 policies that we applied which would have been
13 supporting of this policy.

14 Q. So let me just make sure that I
15 understand what you're saying. You believe
16 there would have been an earlier policy that
17 governed the Central Price Testing, but this is
18 not it; is that correct?

19 A. I don't know that.

20 MR. THOMAS: Objection to form.

21 Q. Would you agree that based on the date
22 of the document as May 2009, that it is dated
23 after the Lehman transaction?

24 A. The date on this document is after the
25 Lehman transaction.

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2 taken on certain asset classes in the Lehman
3 transaction?

4 MR. THOMAS: Objection to form.
5 Foundation.

6 A. As I'm not overly familiar with this
7 document, I'm not exactly clear what they're
8 trying to distinguish within this form. This is
9 a very general classification across all asset
10 categories for a global database.

11 Q. Would your understanding, though, of a
12 liquidity adjustment be similar to the concept
13 of a fair value adjustment?

14 MR. THOMAS: Objection to form.

15 A. A liquidity and a fair value
16 adjustment would be similar in my mind.

17 Q. If you could turn your attention to
18 Deposition Exhibit 806B, and take a moment to
19 review, if you haven't already.

20 (Document review.)

21 A. Okay.

22 Q. Have you ever seen this document
23 before?

24 A. Yes, I have.

25 Q. And if you turn to the front page, you

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2 Q. You had mentioned regional policies
3 that would fall under this central policy.
4 Could you be more specific in naming those
5 policies?

6 A. For example, you provided Exhibit
7 802B, which was your fixed income credit
8 products price testing policy, is an example of
9 a regional guidance or a product-specific policy
10 that would be supportive of this global policy.

11 Q. If I could just ask you to be more
12 specific, though, about the ones that governed
13 the products you were directly responsible for.

14 A. I do not see those specific policies
15 here, but we had those policies and procedures
16 in place at the time.

17 Q. And could you name those for me? Are
18 you familiar with the policies and procedures
19 that govern your area?

20 A. Yes, I'm familiar with the policies
21 and procedures I wrote that govern my area, yes.

22 Q. And would you be able to tell me how
23 many policies and procedures there are that
24 govern your area?

25 A. There should be one policy that covers

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 all Agency RMBS products and non-Agency RMBS</p> <p>3 products.</p> <p>4 Q. And that would be in addition to the</p> <p>5 CMBS policy that we have already seen?</p> <p>6 A. Correct.</p> <p>7 Q. Would there be any other policies and</p> <p>8 procedures that govern your group?</p> <p>9 A. I don't recall.</p> <p>10 Q. Could you explain what the difference</p> <p>11 between the Central Price Testing guidance would</p> <p>12 be as opposed to the more specific regional</p> <p>13 policies that were in existence?</p> <p>14 MR. THOMAS: Objection to form.</p> <p>15 Foundation.</p> <p>16 A. I mean, if you look at the price</p> <p>17 testing policy as created by Central, it's</p> <p>18 really more of a generalized approach: Timing,</p> <p>19 how to report the data, what are some of the</p> <p>20 requirements in terms of data sources or how to</p> <p>21 handle specific issues, like untested items.</p> <p>22 So, I mean, it really provides a</p> <p>23 general framework that everybody is responsible</p> <p>24 for adhering to. And then within your specific</p> <p>25 asset category or product specialty, you would</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 then document and fully, you know, list what</p> <p>3 your processes and your procedures and the</p> <p>4 acceptable values, et cetera, would be.</p> <p>5 So, I mean, if your sources for</p> <p>6 mortgage-backed securities, pricing for vendors</p> <p>7 would be Financial Times, interactive data, we</p> <p>8 would specify those vendors in our policy,</p> <p>9 whereas somebody on the other side of a</p> <p>10 different product may not use that pricing</p> <p>11 source because it is not applicable to their</p> <p>12 product space.</p> <p>13 Q. If you could turn to page 12 of the</p> <p>14 exhibit.</p> <p>15 A. Okay.</p> <p>16 Q. At the top, do you see the line that</p> <p>17 says "The Pricing Template - A Product</p> <p>18 Controller's Guide"?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Would this be the template used by</p> <p>21 your group in the event that any differences</p> <p>22 were found between a trader's marks and the</p> <p>23 results of your price testing?</p> <p>24 MR. THOMAS: Objection to form.</p> <p>25 A. No, this would not. This would be</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 a -- a centralized, a standard reporting format</p> <p>3 that we can aggregate all of our pricing data</p> <p>4 and deliver that to Central for a central</p> <p>5 reporting database.</p> <p>6 Q. And was this template followed for any</p> <p>7 of the CUSIPs that were acquired in the Lehman</p> <p>8 transaction?</p> <p>9 MR. THOMAS: Objection to form.</p> <p>10 A. I don't recall. This would have been</p> <p>11 not applicable to the assets in question because</p> <p>12 they were reported at a very detailed level, and</p> <p>13 once the assets were sold to a trading desk,</p> <p>14 then they would be reported in this format.</p> <p>15 Q. And so you would expect that any</p> <p>16 assets that were sold to a trading desk would</p> <p>17 have a pricing template at some point generated</p> <p>18 for it?</p> <p>19 MR. THOMAS: Objection to form.</p> <p>20 A. The business would have had their</p> <p>21 portfolio presented to Central Price Testing</p> <p>22 using this reporting format.</p> <p>23 Q. And would this be across all asset</p> <p>24 classes?</p> <p>25 A. Yes.</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Q. And when you say reported to Central,</p> <p>3 could you explain what you mean by that term?</p> <p>4 A. There is a group in London that is</p> <p>5 responsible for consolidated reporting of price</p> <p>6 testing results.</p> <p>7 Q. And what sort of reporting are they</p> <p>8 responsible for?</p> <p>9 A. Consolidated, high-level reporting of</p> <p>10 the price testing results, business-level or</p> <p>11 business-level variance explanations.</p> <p>12 Q. And when you say business-level</p> <p>13 variance explanations, who would those go to?</p> <p>14 A. These reports go into the Central</p> <p>15 Price Testing database. They are all presented</p> <p>16 to -- we would present the business-level</p> <p>17 results to the head of the business or the</p> <p>18 trader responsible for the business.</p> <p>19 Then we would also use this reporting</p> <p>20 format to create business-level summaries at the</p> <p>21 highest levels, whether it's for the head of</p> <p>22 mortgage-backed securities trading or if it's</p> <p>23 the head of fixed income rates trading, who the</p> <p>24 head of mortgage trading would report in to.</p> <p>25 Q. And how frequently would these reports</p>

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2 be generated?

3 A. Monthly.

4 Q. And would they be generated for every
5 CUSIP on a trader or a business' books?

6 A. No, they would not.

7 Q. And for which CUSIPS would they be
8 generated?

9 A. Well, they would be generated for the
10 portfolio and presented by an asset category as
11 a summary line. So, as opposed to every
12 individual security being reported in this
13 format, you would report all non-agency, all day
14 mortgages, and the results of the price testing,
15 with any meaningful commentary about the
16 portfolio.

17 Q. You can put that aside.

18 Earlier we had talked about the marks
19 that roll up into Barclays' acquisition
20 accounting and whether those were values that
21 came from your group, and I believe your answer
22 was that it would be the trader's marks that
23 would roll up; is that correct?

24 A. I didn't say that.

25 Q. Okay. I'm sorry. Could you tell me

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2 where do the prices that roll up into the
3 acquisition balance sheet come from?

4 MR. THOMAS: Objection to form.

5 A. For the components that I was
6 responsible for valuing, it is my understanding
7 that the majority of those prices would have
8 been either the Product Control prices or, if we
9 had trade prices, we would have reviewed the
10 trade prices.

11 Q. Maybe we should take a step back and
12 just ask, in the ordinary course, when doing
13 financial statements, where do the prices come
14 from that feed into the financial statements?

15 MR. THOMAS: Objection to form.

16 A. As we said, the traders are
17 responsible for the positions that they manage
18 on their balance sheet to mark those positions
19 to market every day.

20 Q. And how do they enter those marks? Is
21 there a system into which they enter those
22 marks?

23 A. There would be a trading system for
24 each business, whether -- you know, whatever is
25 appropriate for that product class, and they

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2 would manage those -- the input of the pricing
3 on their -- within their own resources and they
4 would enter those prices in the system and we
5 would receive those prices and those inventories
6 from the line controllers.

7 Q. And what's the name of the system
8 through which you receive those trader marks?

9 A. Each business gives me a different
10 one, and the results are delivered to me on
11 Excel spreadsheets.

12 Q. And of the businesses that you cover,
13 do you know which systems correspond to which
14 business?

15 A. The mortgage trading uses an
16 application called Winfits, and some of the
17 other -- I believe everyone is using Winfits
18 now. There may have been some different front
19 office systems at the time. I don't know
20 exactly which systems were in place, but Winfits
21 has been the standard for the securitized
22 products business that I cover.

23 Q. Is there any other system to which
24 Winfits feeds into?

25 A. Yes.

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2 MR. THOMAS: Objection to form.

3 A. Yes.

4 Q. Are you familiar with the systems to
5 which it feeds?

6 A. Not personally.

7 Q. I don't want to go through a long
8 discussion on your systems. I'm just trying to
9 get an understanding of whether there's some
10 sort of repository that houses most of the marks
11 that are entered by traders at Barclays and are
12 you aware of such a system?

13 A. It's my understanding that the traders
14 will mark their positions in Winfits. The data
15 is stored in the Winfits and all of the
16 repositories.

17 There's also individual bond pricing
18 data stored in a global referential called Asset
19 Control, but the front office trading systems
20 store all the pricing data for the bonds.

21 Q. Are you familiar with a system that
22 would eventually generate the general ledger,
23 what that would be called?

24 A. SAP.

25 Q. So is it fair to say that at some

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2 point Winfits feeds into SAP?

3 MR. THOMAS: Objection to form.

4 A. That would be a line controller
5 function, so I don't know if Winfits feeds
6 directly into SAP or if the line controllers
7 record entries into SAP or how that process
8 works operationally.

9 Q. So when your group goes about price
10 testing a trader's marks, you would do so based
11 off of the marks that are handed to you on an
12 Excel spreadsheet; is that correct?

13 A. We would be given a population with
14 all of the values and ask that those values be
15 reconciled back to the general ledger by the
16 line controllers, so we have a population
17 completeness control check as a part of our
18 standard course of doing business or price
19 testing or doing valuations.

20 Q. And the general ledger being SAP; is
21 that correct?

22 A. Correct.

23 Q. Do you know what SOPHIS is?

24 A. No.

25 MR. THOMAS: This may not be necessary

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2 other?

3 MR. THOMAS: Objection to form.

4 A. As an international firm, that is
5 subject to IFRS reporting standards, we would
6 probably defer to the International Accounting
7 Standards.

8 Q. Does your --

9 A. If there was a difference.

10 Q. Does your group take into
11 consideration FAS 157 or IFRS when price
12 testing?

13 MR. THOMAS: Objection to form.

14 A. I'm not sure what you mean by that.

15 Q. In terms of testing the marks that a
16 trader has ascribed to a security, what sort of
17 guidance does your group follow, whether it be
18 FAS 157 or IFRS or something else?

19 MR. THOMAS: Objection to form.

20 A. The International Accounting Standards
21 and the U.S. accounting standards tend to be
22 relatively similar. To the extent that there
23 may be a minor difference, in the asset
24 categories that I review, it would be less of an
25 issue because there's a wide range of values and

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2 under agreement, but to the extent it is,
3 I'm designating the transcript highly
4 confidential.

5 Q. The marks that the traders enter and
6 that are subsequently price tested by your
7 group, what measure of value would they reflect?

8 A. Fair value.

9 Q. And would fair value -- what is your
10 definition of "fair value"?

11 A. Definition of "fair value" would be a
12 value which we believe would reasonably be
13 expected to be obtained in the marketplace.

14 Q. Would those marks be in accordance
15 with how "fair value" is defined under FAS 157?

16 MR. THOMAS: Objection to form.

17 A. I believe it would be consistent with
18 that.

19 Q. Would it be consistent with the --
20 with IFRS?

21 MR. THOMAS: Objection. Form.

22 A. I believe it would be.

23 Q. To the extent that FAS 157 and IFRS
24 are not exactly the same, do you know if the
25 marks are reflective or favor one over the

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2 there's a fairly common method as to how these
3 bonds trade and how they're priced in the
4 market.

5 Q. Would a mark take into consideration
6 the size of the asset? I'm sorry, let me strike
7 that.

8 Would a trader's mark take into
9 account the lot size of that specific security?

10 MR. THOMAS: Objection to form.

11 A. A trader's mark will reflect that
12 trader's view as to the ability to sell that
13 bond and at what level they could sell that bond
14 at.

15 Q. And so is your answer that if the size
16 of the position would affect whether they could
17 sell or not, that they would take into
18 consideration the size of a position?

19 MR. THOMAS: Objection to form.

20 A. To the extent that it's within the
21 accounting guidelines, they might consider that,
22 but generally, that's less of an issue.

23 Q. When price testing, does your group
24 take into consideration the size of a position
25 in determining whether or not a mark is

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2 reflective of fair value?

3 A. We look at all information that's
4 available to us, and if we have a large trade of
5 a position or a small trade of a position and
6 that affects the data that goes into our model,
7 we would consider that as part of our overall
8 analysis.

9 Q. So is the answer yes, that size would
10 be considered in the analysis?

11 MR. THOMAS: Objection to form.

12 A. Size is one factor in reviewing a
13 trade to determine the validity of the trade
14 data.

15 Q. Is it your understanding that any of
16 the assets that were acquired from Lehman were
17 valued at a lower price based off of the bulk
18 size of any given position?

19 MR. THOMAS: Objection to form.

20 A. I don't recall. I'm not aware of any.

21 Q. If that were the case, would it be
22 your opinion that that would be a proper basis
23 to mark down a security?

24 MR. THOMAS: Objection to form.

25 A. There would definitely be issues with

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2 the ability to trade certain positions and
3 liquidate certain positions if the transaction
4 costs might be higher than the actual nominal of
5 the bond or if there were no buyers for specific
6 instruments or you would have to repackage those
7 securities.

8 Q. Are you aware of whether it's proper
9 to take into consideration the size of a
10 position when marking to fair value under FAS
11 157 or IFRS?

12 MR. THOMAS: Objection to form.

13 A. I'm familiar with some of the
14 concepts, yes.

15 Q. And is it your understanding that it
16 is or is not proper under either of those two
17 regs.?

18 MR. THOMAS: Objection to form.

19 A. I would need to confirm by seeing the
20 actual standard before I responded just to make
21 sure of that. I believe it is considered that
22 block size is a factor, but it's not the
23 determinant in a bond's price.

24 Q. Typically speaking, would a mark be
25 reflective of a so-called round lot of a

1 HIGHLY CONFIDENTIAL - Landreman
2 particular CUSIP?

3 MR. THOMAS: Objection, form.

4 A. I'm not sure what you mean by that.

5 Q. As opposed to bulk size position,
6 would you expect a mark to reflect what would be
7 the typical lot of -- that a security would
8 trade between a buyer and a seller?

9 MR. THOMAS: Objection to form.

10 A. I mean, yes. A lot of these concepts
11 are fine in other asset categories. Most of
12 what my world reviews, it has, you know, highly
13 customized asset classes that are, you know,
14 different shapes and forms and have different
15 sizing.

16 So there is no round lot designation
17 to say that, you know, mezzanine bonds trade at,
18 you know, a hundred million dollar increments.
19 There's very little standardization, as opposed
20 to the fixed income world, where you might have
21 a hundred-million-dollar issuances that sell in
22 \$20 million round lots.

23 So in the securitized products world
24 that's less of a concept that gets considered in
25 our analysis.

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2 Q. What's your understanding of the
3 meaning of an "orderly exit price"?

4 A. A willing buyer and a willing seller
5 negotiating in an arm's length transaction.

6 Q. Is there any temporal limitations on
7 the concept of an orderly exit?

8 MR. THOMAS: Objection to form.

9 A. Can you define what you mean by
10 "temporal."

11 Q. When you say a willing buyer and a
12 willing seller, are you saying a minute from now
13 or five days from now?

14 MR. THOMAS: Objection to form.

15 A. I think it depends upon which asset
16 category you're talking about. In many cases,
17 securitized products world, these are custom
18 bonds. These are very unique, very few of these
19 structures are alike and there's always
20 something different, so it takes a fair amount
21 of analysis to price or to review each bond.

22 So to say that there's a temporal
23 difference in terms of I can have a price within
24 an hour, generally the trades that come in on
25 these positions are negotiated over time, and

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2 our flow business may buy a position and sell it
3 out, but that would that be prenegotiated. We
4 probably would not have bought the position
5 unless we had a seller on the other side.
6 So it isn't like I just push a button
7 and this trades and someone comes along and buys
8 it. It's generally a negotiated sale over time.
9 Q. To the extent that a mark from a
10 trader is reflective of an orderly exit price,
11 when price testing that mark, what would you
12 expect that orderly exit to look like for the
13 asset classes that you cover?
14 MR. THOMAS: Objection to form.
15 A. Since the beginning of 2007, I don't
16 know how to answer that question.
17 Q. Are you saying, since the beginning of
18 2007, there is no such thing as an orderly exit?
19 A. Since the beginning of 2007, during
20 the credit crisis, there's been a lot of, you
21 know, differing types of sales, and to say
22 that -- we look at every transaction that we
23 have the ability to see, but we also have to
24 look at the performance of the underlying
25 collateral and there's a lot of information that

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2 bond.
3 Q. But would that be an orderly exit
4 price if you were a forced seller?
5 A. Your definition contradicts itself.
6 An orderly sale and a forced seller
7 cannot be in the same.
8 Q. When did you first become aware of the
9 possibility of a transaction with Lehman?
10 MR. THOMAS: Objection to form.
11 A. I was on vacation and I saw the news
12 article on CNBC.
13 Q. And when was that?
14 A. I'm sorry?
15 Q. And when was that?
16 A. The day it happened. I was in Hawaii
17 on vacation. I think it was the 19th or the
18 18th.
19 I'm sorry, it may have been Saturday.
20 The exact day that the bankruptcy happened,
21 though, was --
22 Q. So if I represent to you that the
23 bankruptcy filing of the holding company was
24 September 15, is it fair to say that's when you
25 first learned about it?

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2 has to go into our analyses and a lot of data
3 has to be researched and reviewed.
4 So to say that in the last two to
5 three years there's been an orderly disposition,
6 I would say that there's -- we're starting to
7 come back to that, we've come back to that over
8 the last year, but for a long period of time
9 there were lots of chaos in the markets.
10 Q. Would a distressed price be one that
11 arises out of an orderly exit?
12 MR. THOMAS: Objection. Form.
13 A. What do you mean by "distressed
14 price"?
15 Q. If I put a gun to your head and said I
16 need you to sell this in an hour.
17 A. Well, that would be a forced seller.
18 Q. And would that be reflective of an
19 orderly exit price?
20 MR. THOMAS: Objection to form.
21 Q. The price that willing (sic) was
22 willing to purchase at?
23 A. That would be considered a data point,
24 but that doesn't mean that that would be, you
25 know, the determining factor of a trade of a

1 HIGHLY CONFIDENTIAL - Landreman
2 A. Yes.
3 MR. THOMAS: Objection to the form on
4 the last question.
5 (Exhibit 808B, a document bearing
6 Bates Nos. BCI-EX-(S)201329 through 201331,
7 marked for identification, as of this date.)
8 Q. Mr. Landreman, you have before you
9 what has been marked as Deposition Exhibit 808B.
10 If you could turn your attention to the second
11 page, the e-mail that begins on that page from
12 Mr. Teague to Paul Copson, CC-ing Marcus Morton,
13 Philip Nash, James Walker.
14 A. I see that.
15 Q. Have you seen this e-mail before?
16 A. No, I have not.
17 Q. If you will turn your attention to the
18 first sentence, where Mr. Teague writes, "Paul:
19 High level, we should be able to provide pricing
20 support on a T+1 for much of the fixed income
21 rates and fixed income Credit products. ABS
22 will be a WIP," W-I-P. Do you see that?
23 A. Yes, I do.
24 Q. And then if you turn your attention
25 down to Roman numeral II, "ABS Testing - (A)

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Coverage." Roman (iii), "For Alt A positions,</p> <p>3 an independent price is calculated via a matrix</p> <p>4 developed by Landreman's group, which</p> <p>5 incorporates recent trade levels by the Alt A</p> <p>6 market making desk and loss curve based on home</p> <p>7 equity roll rates." Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And this e-mail is dated on Monday,</p> <p>10 September 15, do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Were you asked at or about this time</p> <p>13 to work on providing pricing support for any of</p> <p>14 the assets Lehman was -- Barclays was</p> <p>15 contemplating purchasing from Lehman?</p> <p>16 MR. THOMAS: Objection to form.</p> <p>17 A. As you notice, I wasn't on this</p> <p>18 e-mail. This was actually Sean giving a</p> <p>19 high-level overview to the executives in London.</p> <p>20 Q. I understand. I'm just asking whether</p> <p>21 you --</p> <p>22 A. I was on vacation from the 12th</p> <p>23 until -- I would have to confirm the dates, but</p> <p>24 I thought I was gone like from the 12th of</p> <p>25 September until that I was in Hawaii for the</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 week, and as soon as I got back, I was given</p> <p>3 everything. My BlackBerry wasn't working in</p> <p>4 Hawaii.</p> <p>5 Q. So until you returned from your trip,</p> <p>6 you were not involved in any sort of pricing</p> <p>7 support in connection with the transaction; is</p> <p>8 that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know if members of your team</p> <p>11 were involved with pricing support prior to your</p> <p>12 return from vacation?</p> <p>13 MR. THOMAS: Objection. Form.</p> <p>14 A. They would have been involved in</p> <p>15 pricing these portfolios, yes.</p> <p>16 Q. Is it your understanding that your</p> <p>17 team received CUSIP-level information at the</p> <p>18 positions that Barclays was contemplating</p> <p>19 purchasing in order to do that price testing?</p> <p>20 MR. THOMAS: Objection to form.</p> <p>21 A. It's my understanding that all of the</p> <p>22 collateral that was pledged at the Fed window</p> <p>23 was going to be delivered to us for review.</p> <p>24 Q. Was that your understanding as early</p> <p>25 as September 15?</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 A. Again, I was not in the office on the</p> <p>3 15th, so I would have to say what's -- the</p> <p>4 earliest of my understanding is when I returned</p> <p>5 from vacation.</p> <p>6 Q. Do you know when any members of your</p> <p>7 team got started with price testing any</p> <p>8 securities that Barclays was contemplating</p> <p>9 purchasing?</p> <p>10 A. They would not have started until</p> <p>11 there was a public announcement that we acquired</p> <p>12 the firm, that we acquired or that we were --</p> <p>13 there was a public announcement that we were</p> <p>14 negotiating.</p> <p>15 Q. I believe you had said earlier that</p> <p>16 you would expect that your team had been</p> <p>17 involved with pricing support before your return</p> <p>18 from vacation. Is that not accurate?</p> <p>19 A. They -- if my -- my team would have</p> <p>20 been involved in pricing these assets once they</p> <p>21 were delivered to us, assuming that we were</p> <p>22 given a population. There's a very good chance</p> <p>23 that we would not have been given a population</p> <p>24 for a couple days after the deal was announced.</p> <p>25 Q. So you're not aware of any pricing</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 support being given by your team prior to the</p> <p>3 delivery of any securities simply to ascertain</p> <p>4 whether Barclays wanted it or what price they</p> <p>5 thought it was worth or anything of the sort?</p> <p>6 MR. THOMAS: Objection to the form.</p> <p>7 A. I was not involved in the negotiation</p> <p>8 of the transaction and we did not receive any of</p> <p>9 the information in terms of what we were</p> <p>10 receiving until the deal was made public.</p> <p>11 Q. And when you say "the deal was made</p> <p>12 public," what do you mean by "the deal was made</p> <p>13 public"?</p> <p>14 A. The announcement that Barclays was</p> <p>15 negotiating a transaction.</p> <p>16 Q. So when it publicly announced in the</p> <p>17 middle of the week that an Asset Purchase</p> <p>18 Agreement had been signed, that's when your team</p> <p>19 would have stepped in and started to provide</p> <p>20 pricing support?</p> <p>21 MR. THOMAS: Objection to form.</p> <p>22 A. Right. Correct. They would not have</p> <p>23 been involved in any pre, pre-public</p> <p>24 announcements. They would not have been</p> <p>25 involved in any investment banking negotiations</p>

1 HIGHLY CONFIDENTIAL - Landreman
2 or acquisition or merger advisory capacity.

3 Q. So turning back to Deposition Exhibit
4 808B, is it your testimony that you're not aware
5 of anyone the Monday of Mr. Teague's e-mail
6 providing the pricing support discussed in his
7 e-mail?

8 MR. THOMAS: Objection to form.

9 A. The e-mail dated Monday, September 22,
10 contains pricing support for assets that would
11 have come from Sean's area of expertise.
12 There's nothing in here that would have come
13 from my group.

14 Q. My question is simply, around the time
15 that Mr. Teague's e-mail goes out September 15,
16 whether you're aware if your team also got
17 involved in the process of pricing support
18 related to the Lehman transaction?

19 MR. THOMAS: Objection. Form.

20 A. Once we were informed that there would
21 be securities for us to price, we would have
22 been involved in pricing those securities.

23 Q. So that could have been as early as
24 September 15; is that correct?

25 A. If we knew what we were getting. I

1 HIGHLY CONFIDENTIAL - Landreman
2 there...

3 Q. Do you recall being involved in the
4 valuation of the securities that were
5 transferred over in the Lehman/Barclays repo the
6 evening of September 18 either on that Friday,
7 the 19th, or Thursday itself?

8 A. I do not recall being involved in the
9 Lehman/Barclays repo pricing or the information
10 from that as of that date.

11 Q. In your mind, was the exercise that
12 you and your team was asked to undertake related
13 to the Lehman transaction and the securities
14 that Barclays was acquiring as opposed to any
15 specific repo transaction?

16 MR. THOMAS: Objection to form.

17 A. My understanding was that the assets
18 that were pledged to secure a repo line of
19 credit were being brought onto our balance sheet
20 and needed to be assigned a fair value on our
21 balance sheet as of the date that they were
22 going to be effectively put on our balance
23 sheet.

24 Q. And do you recall being immersed in
25 that process from the moment that the positions

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2 don't know when we knew what we were getting.

3 (Exhibit 809B, a document bearing
4 Bates Nos. BCI-EX-(S)201104, marked for
5 identification, as of this date.)

6 A. Okay.

7 Q. Mr. Landreman, do you see that this is
8 an e-mail from Mr. Teague to yourself CC-ing
9 Joseph Kaczka, dated September 19; is that
10 correct?

11 A. Correct.

12 Q. And do you see in the body of the
13 e-mail Mr. Teague writes, "Rich, Marcus wanted
14 the different price testing team pitch in to get
15 an idea of how the Lehman positions are priced
16 as of 15 September. Can you ask your team to
17 perform some independent pricing on the
18 following spreadsheet?"

19 A. I see that.

20 Q. Do you recall if this was positions
21 that had already been transferred to Barclays
22 that you were being asked to pitch in and help
23 with price testing?

24 A. I don't recall what was in these
25 files, but I'm sure if I saw what was in

1 HIGHLY CONFIDENTIAL - Landreman
2 were transferred over?

3 MR. THOMAS: Objection to form.

4 A. I was immersed in that process for
5 months.

6 Q. I'm trying to get a feel for when it
7 began. Did the process begin two days before
8 delivery of the assets or did it begin
9 immediately upon transfer of the assets?

10 MR. THOMAS: Objection to form.

11 A. I don't know when all of the assets
12 were officially delivered. That would be an
13 operations question. I know that I was given
14 lists to price and to review at various points
15 in time and there would be different updates to
16 those lists at points in time because certain
17 securities may or may not have been delivered.

18 Q. Were you involved in the
19 reconciliation of what was delivered and what
20 wasn't, or would that be Operations?

21 A. That would be Operations and line
22 controller functions.

23 Q. And were you involved in the creation
24 of any of the schedules related to the
25 transaction documentation?

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MR. THOMAS: Objection.

A. I would not have been.

Q. Did you have any contact with the Finance people that were putting together the acquisition balance sheet?

A. Only to the extent that I would be delivering work from my team to support their work.

Q. Did you receive any instructions from the people preparing the acquisition balance sheet that was out of the ordinary from what you might do on a day-to-day basis outside of a transaction like this?

MR. THOMAS: Objection. Form.

A. Could you clarify what you mean?

Q. Let me rephrase that one.

Did you and your team perform any functions in connection with the Lehman transaction that were outside of the normal scope of what you and your team would undertake?

A. We -- we did everything we could to maintain our normal process, to be consistent in how we valued the securities, how we reviewed the securities in a normal course of business.

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you given a target number by which anyone at Barclays wanted to write down assets from the price at which they had been held on Lehman's books for?

MR. THOMAS: Objection. Form.

A. We had no idea where these positions were held on Lehman's books.

Q. You never reviewed any of Lehman's marks for any of the positions for which you valued?

A. I would not have had that data.

Q. Are you aware that during the week preceding the closing, that lists of CUSIPs were exchanged that held marks corresponding to what Lehman had it on its books for?

MR. THOMAS: Objection to form.

A. I don't recall seeing any list of CUSIPs that may have had a Lehman mark or would I have given consideration to where another firm would have marked the position.

Q. To you, the mark of another firm would not be another data point that's worth consideration?

A. It would be a data point.

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You know, not having a trader's price to benchmark, we would have, you know, valued the securities consistently with how we normally would apply our policy and our procedure as to how we priced and valued these securities.

Q. But it was not an ordinary situation because normally for this quantity of CUSIPs you would have a trader's mark; is that correct?

A. A combination of factors. I think a portfolio of this size usually doesn't transfer every day. The portfolio itself was of such inferior quality to everything we had in our books and records that it required a much more exhaustive review as to how to ascribe fair value to these positions because of the low levels of quality within that portfolio.

Q. Were you told prior to valuing any of the asset classes that were transferred over in the Lehman transaction how much the trading desks wanted to write down certain asset classes by?

A. Explain what you mean by "write down."

Q. Prior to undertaking any sort of valuation process for individual CUSIPs, were

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Q. But it is not a data point that Barclays considered in valuing the securities that your group was responsible for; is that correct?

MR. THOMAS: Objection to form.

A. I don't believe I had that data available to me at the time we were valuing this portfolio.

Q. Did your group use as a data point the price at which JPM or BoNY had marked any of the securities within your group?

A. We did look at that data as a data point within our process.

Q. And how was that used as a data point within your process?

A. In many cases, if there was no data available or we were unable to model a position, we may have defaulted to a BoNY price. We did review the prices that we derived using our own proprietary methodologies to value these bonds and compared that to the levels that we saw from BoNY or JPMorgan or IDC or other vendors that provide indicative pricing data for these types of transactions, and we used all of that data to

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2 measure pricing dispersion from the various
3 sources to measure our liquidity discounts as
4 one point to support the liquidity discount from
5 the pricing dispersion amongst all of the
6 sources that were around at that time.

7 (Exhibit 810B, a document bearing
8 Bates Nos. BCI-EX-(S)52667 through 52668,
9 with attachment, marked for identification,
10 as of this date.)

11 A. Okay.

12 Q. Mr. Landreman, you have before you
13 what has been marked as Deposition Exhibit 810B.
14 Have you had an opportunity to read it?

15 A. Yes, I have.

16 Q. This is an e-mail that I'll represent
17 to you is from Gary Romain to Rich Ricci, among
18 others, and if you will -- and it's dated
19 September 22. If you'll turn your attention to
20 the body of the e-mail, the line that reads,
21 "The \$2.83 billion valuation adjustment is S.
22 King's first cut only." Do you see that?

23 A. Yes, I do.

24 Q. And do you know who S. King is?

25 A. I believe that would be Stephen King.

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2 number or where he was ascribing that valuation
3 adjustment because that was a global number
4 because Stephen King managed the entire
5 portfolio of assets that was coming over, and I
6 only saw the securitized products portion of
7 that.

8 Q. Did you or your group supply any
9 information to Stephen King or his group that
10 you feel would have been used to support a \$2.83
11 billion valuation as of September 22?

12 MR. THOMAS: Objection. Form.

13 A. Stephen King had his own team that was
14 able to make their own recommendations and look
15 at these assets on their own and to determine
16 what sort of adjustment or even valuation issues
17 needed to be addressed.

18 Q. Would it be your expectation that, as
19 of September 22, Stephen King and his group had
20 decided how much an internal sales, a reasonable
21 internal sales price would be to them for the
22 securities that were being transferred from
23 Lehman?

24 MR. THOMAS: Objection to form.

25 A. I don't know that.

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1 HIGHLY CONFIDENTIAL - Landreman
2 Q. And what was Stephen King's position
3 at Barclays?

4 A. Stephen King was the head of the
5 Proprietary Mortgage Trading Group -- Principal
6 Mortgage Trading Group, PMTG.

7 Q. And so your group was responsible for
8 price testing securities that would fall under
9 Stephen King's group; is that correct?

10 A. If they would have been securitized
11 products, yes.

12 Q. Are you aware that, as of September
13 22, there was already a determination that there
14 would be a valuation adjustment to securities
15 that had transferred to Barclays?

16 MR. THOMAS: Objection to form.

17 A. I know by September 22 we had started
18 to review the data that we had received, and I
19 know that there was a lot of surprise about the
20 poor quality of the assets that were delivered
21 to us and the uncertainty around the ability of
22 certain assets to actually be considered real
23 securities or to be delivered.

24 In terms of Stephen King's valuation
25 adjustment, I don't know how he derived that

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2 (Discussion off the record.)

3 Q. Prior to closing, were you involved in
4 any processes or communications that resulted in
5 a demand for additional collateral by Barclays
6 from Lehman?

7 A. I'm not sure I understand the
8 question.

9 Q. Are you aware on Friday, prior to the
10 closing of the Lehman transaction, that
11 additional securities were requested for
12 delivery from Lehman to Barclays?

13 A. I wasn't involved in the negotiation
14 or the settlement of the deal or the structure.

15 MR. THOMAS: Objection. Form.

16 Q. Were you providing any valuations that
17 would support that Barclays was getting less or
18 more consideration prior to closing that would
19 be used in any negotiations of the deal?

20 MR. THOMAS: Objection to form.

21 A. When I came into the data, I was told
22 that these were the securities that would be
23 delivered to us and that we were to value those
24 securities. We would not have been involved in
25 the negotiations or any requests for additional

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2 collateral.

3 Q. So, as far as you know, none of the
4 valuations that you or your team were working on
5 were being used in connection with the
6 negotiations of the transaction; is that
7 correct?

8 A. Not that I'm aware of.

9 Q. Are you aware of the price at which
10 Barclays booked the securities transferred to it
11 on day one?

12 MR. THOMAS: Objection to form.

13 A. I am not aware of the price that was
14 booked in the general ledger.

15 Q. Is it your understanding that the
16 positions were booked at one price on day one,
17 and then subsequently amended for purposes of
18 acquisition accounting once Barclays had
19 concluded its valuation of the securities
20 transferred to it?

21 MR. THOMAS: Objection to form.

22 A. I'm not that involved with the
23 accounting aspects of how things get booked or
24 the operations aspect of how things get booked
25 and accounted for. I know I was asked to

1 HIGHLY CONFIDENTIAL - Landreman
2 provide valuations on securities for specific
3 dates, and we did that.

4 Q. And when did you and your team finish
5 valuing the securities it was asked to value?

6 A. I don't recall the date that it was.

7 Q. If you could ballpark it for me. Was
8 it September 22?

9 A. No.

10 Q. Was it --

11 A. I would have -- I thought --

12 Q. Weeks after the transaction? A month
13 after the transaction?

14 A. It was -- it was definitely several
15 weeks. It took some time to get everything, you
16 know, finalized. There were some preliminary
17 numbers that came up within a couple weeks, but,
18 you know, the final numbers and the final review
19 ended up taking several weeks.

20 Q. And is it your understanding that
21 prices were changed based off the results of
22 your valuation that didn't conclude until at
23 least weeks after the transaction closed?

24 MR. THOMAS: Objection to form.

25 A. I don't recall that. It's possible

1 HIGHLY CONFIDENTIAL - Landreman
2 that there may have been some price adjustments
3 both up or down based upon what we saw as we
4 reviewed certain assets in more detail as more
5 data became available.

6 Q. For purposes of valuing the
7 securities, were you and your team initially
8 valuing those securities as the date of receipt
9 or some other date?

10 A. We were instructed to provide values
11 as of specific dates, whether it was the 19th,
12 the 22nd, or a number of days in between. So
13 whenever we were asked to provide valuations as
14 of effective dates, we provided the valuation as
15 of the dates that we were requested.

16 Q. And by whom were you requested to
17 provide valuations as of a specific date?

18 A. I don't recall specifically who asked,
19 but I know that we've been asked on multiple
20 occasions by different senior management to
21 provide valuations as of specific dates.

22 Q. And were you told or did you have an
23 understanding at any point what the basis for
24 using the close of business on September 19 was
25 initially?

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2 A. I was --

3 MR. THOMAS: Objection to form.

4 A. I was ambivalent. To me, I was being
5 asked to value as of a certain day. I valued as
6 of a certain date.

7 Q. And so did you and your group never
8 opined as to what would be a more appropriate
9 measurement date for a security based off of a
10 point in time?

11 A. That would be a dialogue with
12 Technical Accounting and Price -- PwC. They
13 would be the experts that would opine on the
14 effective date of the transaction.

15 Q. Most of the securities that your group
16 was responsible for valuing were received
17 through the repo; is that correct?

18 MR. THOMAS: Objection to form.

19 A. I believe so.

20 Q. And those positions, most of them, had
21 been received as of Friday, September 19; is
22 that correct?

23 MR. THOMAS: Objection to form.

24 A. I don't know when we physically
25 received the securities.

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Q. On some of the spreadsheets and</p> <p>3 throughout the matter, we've been referring to</p> <p>4 the securities that arrived on September 19</p> <p>5 through the repo as the initial inventory.</p> <p>6 Are you familiar with that term?</p> <p>7 A. Vaguely.</p> <p>8 Q. Do you have a ballpark figure of the</p> <p>9 number of CUSIPs that your team was responsible</p> <p>10 for that would be considered initial inventory</p> <p>11 securities?</p> <p>12 MR. THOMAS: Objection to form.</p> <p>13 A. I don't recall that, that -- I know it</p> <p>14 was a large number, but I don't know what the --</p> <p>15 what the count of securities was.</p> <p>16 Q. But there was a significant number of</p> <p>17 CUSIPs that your team valued that came over as</p> <p>18 part of the initial inventory; is that correct?</p> <p>19 MR. THOMAS: Objection to form.</p> <p>20 A. There was a large file of securities,</p> <p>21 yes.</p> <p>22 Q. As part of the initial inventory, as</p> <p>23 opposed to later securities transferred; is that</p> <p>24 correct?</p> <p>25 MR. THOMAS: Objection to form.</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 A. Again, I don't know your definition of</p> <p>3 the "initial inventory" because it was really</p> <p>4 irrelevant to us. We were given a list of</p> <p>5 positions to price as of effective specific</p> <p>6 days, and that's what we did.</p> <p>7 Q. I'm handing you what's previously been</p> <p>8 marked as Deposition Exhibit 86B, and I will</p> <p>9 also hand you what's previously been marked as</p> <p>10 Deposition Exhibit 87B.</p> <p>11 Have you previously seen either of</p> <p>12 these two documents?</p> <p>13 A. I don't recall seeing these documents</p> <p>14 before.</p> <p>15 Q. Have you seen a variation of this</p> <p>16 document before?</p> <p>17 A. I could have seen a variation of a</p> <p>18 document like this before.</p> <p>19 Q. I ask because I have numerous,</p> <p>20 numerous ones I can possibly show, so I just</p> <p>21 want to shortcut this in the sense of, would a</p> <p>22 document like this have been put together by</p> <p>23 someone in PCG? Let's start there.</p> <p>24 MR. THOMAS: Objection to form.</p> <p>25 A. This document would appear to be</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 created by somebody potentially in PCG or in</p> <p>3 Financial Control.</p> <p>4 Q. I'm going to give you what's</p> <p>5 previously been marked as Deposition Exhibit</p> <p>6 641A. We have tabbed a couple of pages. You</p> <p>7 don't need to turn to them yet, but just for</p> <p>8 convenience.</p> <p>9 Just let me know when you're ready.</p> <p>10 (Document review.)</p> <p>11 A. I think I'm ready.</p> <p>12 Q. Okay. Deposition Exhibit 641A was</p> <p>13 produced to us and appears to be at least</p> <p>14 substantially similar in parts to Deposition</p> <p>15 Exhibit 86B and 87B, and perhaps, in its full</p> <p>16 glory, it might be easier to question you based</p> <p>17 off of 641A.</p> <p>18 MR. THOMAS: Do you want to direct him</p> <p>19 to the parts that you think are</p> <p>20 substantially similar?</p> <p>21 Q. Yes. Why don't we start out with the</p> <p>22 first page that we have tabbed, which is what</p> <p>23 we'll use in lieu of 86B, which is one Excel tab</p> <p>24 of a much larger Excel workbook, and the Excel</p> <p>25 workbook is at BCI-EX-(S)-00213995 and it is the</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 summary tab, and the other tabs of that Excel</p> <p>3 workbook are broken out by asset category that</p> <p>4 at least roughly match up with those in the</p> <p>5 summary tab.</p> <p>6 Have you seen this workbook before?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Do you believe that you or anyone on</p> <p>9 your team was responsible for creating it?</p> <p>10 MR. THOMAS: Objection to form.</p> <p>11 A. I believe that we contributed data to</p> <p>12 Sean, who would have put this together. I think</p> <p>13 it would be Sean or somebody in the Financial</p> <p>14 Control side.</p> <p>15 Q. If you'll turn to the fourth column,</p> <p>16 fourth column, which is titled "PCG Value"?</p> <p>17 A. Uh-huh.</p> <p>18 Q. Would you expect that the values in</p> <p>19 that column would reflect the valuations of your</p> <p>20 group, where applicable?</p> <p>21 MR. THOMAS: Objection. Foundation.</p> <p>22 A. I would say that those would have been</p> <p>23 close to being the values that we derived, or</p> <p>24 the values as they were calculated, without any</p> <p>25 liquidity adjustments.</p>

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Q. In terms of price testing, how is the</p> <p>3 process broken up between testing of value as</p> <p>4 opposed to testing of liquidity adjustment?</p> <p>5 A. Normally, in the securitized products</p> <p>6 world, there's a -- the liquidity adjustment</p> <p>7 would not -- we would have a trader's mark, and</p> <p>8 the difference between PCG price and the</p> <p>9 trader's mark, or the variance, we would expect</p> <p>10 it to be a conservative variance.</p> <p>11 Q. If you'll turn your attention to the</p> <p>12 two rows titled "PMTG" and "PMTG II." Your</p> <p>13 group was responsible for valuing certain of the</p> <p>14 securities within PMTG and PMTG II, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Would you expect that for those assets</p> <p>17 that your group was responsible for within PMTG</p> <p>18 and PMTG II, that there would be any</p> <p>19 contribution to the numbers within the column</p> <p>20 "MV - 9-22 with Bid - Offer," which appears to</p> <p>21 be the liquidity adjustment?</p> <p>22 MR. THOMAS: Objection. Form.</p> <p>23 A. I don't know if that's what that</p> <p>24 means. I don't know --</p> <p>25 Q. I'm just trying to understand your</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 earlier answer about the asset class that you</p> <p>3 cover and that you wouldn't expect there to be</p> <p>4 much of a liquidity adjustment for those assets,</p> <p>5 and I just want to know, does that mean that</p> <p>6 there is no liquidity adjustment for any of the</p> <p>7 assets that your group was responsible for</p> <p>8 valuing?</p> <p>9 MR. THOMAS: Objection to form.</p> <p>10 A. No, there were liquidity adjustments</p> <p>11 for the assets that my group valued.</p> <p>12 Q. And would there be specific asset</p> <p>13 classes for which there would be liquidity</p> <p>14 adjustments?</p> <p>15 A. Yes.</p> <p>16 Q. And which would those be?</p> <p>17 A. We listed all of the assets that we</p> <p>18 provided liquidity adjustments for and the</p> <p>19 amount of the adjustment by the asset category.</p> <p>20 Q. Let's turn to the second tab, which is</p> <p>21 also within the Excel workbook Bates-stamped</p> <p>22 BCI-EX-(S)00213995 and is what is found within</p> <p>23 the tab of that Excel workbook titled</p> <p>24 "Liquidity."</p> <p>25 Have you seen this document before?</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 A. Yes, I have.</p> <p>3 Q. Did you assist in its creation?</p> <p>4 A. Yes, I did.</p> <p>5 Q. Would you direct me to which of the</p> <p>6 subtypes you and your group would have had</p> <p>7 responsibility for?</p> <p>8 A. Might be easier if you just go by the</p> <p>9 tabs.</p> <p>10 Q. Okay. Let's go back to --</p> <p>11 A. I would have the RMBS. That includes</p> <p>12 all RMBS-Reperforming, U.S. agency CMOs, U.S.</p> <p>13 agency pools, and the PMTG tab.</p> <p>14 Q. Everything within the PMTG tab?</p> <p>15 A. There will be certain corporate and</p> <p>16 credit-related -- like the certificate of</p> <p>17 deposits and the corporate credit senior was not</p> <p>18 part of -- it's not familiar to me.</p> <p>19 Q. So it appears that there's a</p> <p>20 significant number of securities within your</p> <p>21 group that applied a liquidity haircut. I'm</p> <p>22 just trying to understand, reconcile it with</p> <p>23 your earlier statement about your asset class</p> <p>24 and liquidity adjustments. So perhaps you can</p> <p>25 just explain a little bit more for me in terms</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 of --</p> <p>3 A. Within each asset category or asset</p> <p>4 type, we reviewed all of the pricing data points</p> <p>5 that we received for the various points in time,</p> <p>6 and we looked at a dispersion of pricing,</p> <p>7 assuming that each one of these indications was</p> <p>8 considered to be a fair value measurement, to</p> <p>9 show the variability amongst different opinions</p> <p>10 as to what the values could be or the</p> <p>11 uncertainty or the pricing dispersion, and</p> <p>12 within each category, we calculated a generic</p> <p>13 liquidity haircut based upon the pricing</p> <p>14 dispersion that we saw within these positions.</p> <p>15 Q. But only for those securities that</p> <p>16 were not priced based off of the internal sales</p> <p>17 price; is that correct?</p> <p>18 MR. THOMAS: Objection to form.</p> <p>19 A. I would need to see if there were</p> <p>20 traded prices that had liquidity adjustments. I</p> <p>21 didn't know if there would be or not. I would</p> <p>22 have to see.</p> <p>23 (Luncheon Recess; Time Noted: 12:56</p> <p>24 P.M.)</p> <p>25</p>

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<p>1 HIGHLY CONFIDENTIAL - Landreman 2 AFTERNOON SESSION 3 (Time Noted: 1:42 P.M.) 4 RICHARD LANDREMAN, resumed and 5 testified further as follows: 6 EXAMINATION BY (Cont'd.) 7 MR. CARRERO: 8 Q. Mr. Landreman, before the break, we 9 had left off looking at what has previously been 10 marked as Deposition Exhibit 641A. If you could 11 put that in front of you as well as what we 12 marked earlier today as 800B. 13 Do you have it in front of you? 14 A. Yes, I do. 15 Q. Could you tell me a little bit about 16 the attachment to this e-mail from Mr. Teague to 17 you and others dated October 27, if you're 18 familiar with it. 19 A. Where would you see the attachment? 20 Q. Does your document not have -- I'm 21 sorry. If you turn to what on my copy comes 22 after placeholder document Bates-stamped 23 BCI-EX-(S)-00207969 and then has what is an 24 Excel workbook printed out. 25 A. Okay.</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman 2 Q. Have you seen this document before? 3 A. I don't recall this. 4 Q. Do you recall providing data that was 5 used in its creation? 6 A. I don't recall that. 7 Q. Does that apply to each page of the 8 attachment or only to the first page? 9 MR. THOMAS: Objection to form. 10 A. I don't remember the data that went 11 into here, although it would have come from my 12 group, or pieces of it would have come from my 13 group. 14 Q. Is the data that is within the 15 attachment to 800B an earlier point in time than 16 the data that ultimately feeds into Deposition 17 Exhibit 641A? 18 MR. THOMAS: Objection to form. 19 A. Which tab on 641A? 20 Q. If you turn back to the first flag 21 that we have put on the document for you, that 22 summary page as well as all the supporting pages 23 that roll into that summary page. 24 Why don't we step back. I'm just 25 trying to get an understanding of the process</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman 2 that was under way in the fall of 2008 in 3 valuing the securities that your group was 4 responsible for and how the outcome of that 5 analysis was subsequently disseminated and makes 6 its way into the acquisition balance sheet. 7 I've seen, and I can put a number -- 8 I'm trying to make this as few documents as 9 possible, but I can put a number of documents in 10 front of you where we see correspondence 11 internally as well as with PwC. Data is going 12 back and forth. I want to understand your role 13 in that process of valuing the securities and 14 getting data into what are a number of 15 spreadsheets. 16 So with that said, were you personally 17 involved in the creation of any spreadsheets 18 that record the results of price testing by your 19 group? 20 A. No. 21 Q. Did you review a number of 22 spreadsheets that record the outcome of price 23 testing by your group? 24 A. I would only have reviewed results as 25 it pertains to the asset categories that I price</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman 2 tested. 3 Q. And could you describe for me what 4 those spreadsheets look like? I've got so many 5 spreadsheets here. I'm trying to shortcut it in 6 terms of what -- 7 A. The spreadsheets that I would have 8 reviewed would have been produced in my group 9 that showed that the assets that we were giving 10 to Sean to consolidate would have tied back to 11 the numbers of the population that we were given 12 in terms of number of securities and the 13 notional balances, and then we would have 14 provided market values and any adjustments that 15 would have been prescribed at the time. 16 Q. So, turning back to 641A, if you go 17 back to the first page that's flagged, which is 18 a summary page, and that is within Excel 19 workbook Bates-stamped BCI-EX-(S)-00213995, in 20 addition to a summary tab in that Excel 21 spreadsheet, there are a number of tabs that 22 correspond to asset classes, including RMBS and 23 PMTG. 24 Would your group have created the 25 underlying CUSIP-by-CUSIP tabs of the</p>

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1 HIGHLY CONFIDENTIAL - Landreman
2 A. Sean would have.
3 Q. Is it your understanding that the
4 September 30 date in this e-mail has no relation
5 to the date of any internal sales within
6 Barclays of assets acquired from Lehman?
7 MR. THOMAS: Objection to form.
8 A. I don't understand the question.
9 Q. This September 30 date referenced in
10 this e-mail, does it relate at all to the
11 internal sale of assets within Barclays?
12 A. I don't know that.
13 Q. So looking first at what has been
14 previously marked as Deposition Exhibit 548A,
15 just take a quick look, and turning your
16 attention to the second page, there's a, at the
17 top, there's an e-mail from Marcus Morton dated
18 January 29 to you, among others. Subject is
19 Opening BS Valuation Work, and it says, "Can you
20 please read and respond to the appropriate
21 points?" Do you see that?
22 A. Yes.
23 Q. And then below there's an e-mail from
24 PwC to Morton, and it asks a series of
25 questions. Do you see that?

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1 HIGHLY CONFIDENTIAL - Landreman
2 consolidated reporting tasks for the portfolio.
3 Q. And what were your roles with respect
4 to the consolidated reporting tasks?
5 A. Responding to my segments to Sean.
6 Q. Would any of the points raised below
7 have been points that fell within your area?
8 A. Point 2.
9 Q. Would that have been related to you
10 because it's to PMTG?
11 A. The assets within PMTG, the majority
12 of which were securitized products, correct.
13 Q. What about number 3?
14 A. 3 was more of a Sean Teague issue.
15 Q. Did Mr. Teague have primary
16 responsibility for the valuation of Pine?
17 A. I believe so.
18 Q. If not Teague, is there anyone else
19 you would expect would have had primary
20 responsibility for the valuation of Pine?
21 A. For the testing of it or for the --
22 Q. Go ahead.
23 A. That was a joint effort between the
24 business and the Product Control due to the
25 nature of the asset and the lack of available

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1 HIGHLY CONFIDENTIAL - Landreman
2 A. Yes.
3 Q. If you turn your attention to number
4 1, which says, "Bid/offer - The desk marks to
5 bid. The valuation adjustment has been taken on
6 the desk price. Therefore, this appears to be
7 double-counting. From a consistency purpose,
8 the liquidity adjustment is not used at December
9 31."
10 Do you know what this is a reference
11 to?
12 A. No, I do not.
13 Q. Do you recall responding to PwC on
14 this point?
15 A. Sean would have most likely responded
16 to question number 1.
17 Q. And why would you expect that Sean
18 would have been the one to respond to question
19 number 1?
20 A. The majority of the value
21 adjustment -- valuation adjustment dialogue and
22 discussion was managed by Sean.
23 Q. And do you know why that was, that it
24 was managed by Sean?
25 A. He was managing the majority of the

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1 HIGHLY CONFIDENTIAL - Landreman
2 data for the specific structure and the fact
3 that this was a newly formed structure which was
4 really a bottom-of-the-barrel security which
5 really had no precedent in the market at that
6 time.
7 Q. And who within the business would have
8 been involved in the valuation of Pine?
9 A. Within Stephen King's world, there was
10 Jasen Yang and his team.
11 Q. If you could turn to what has been
12 marked as Deposition Exhibit 813B.
13 (Exhibit 813B, a document bearing
14 Bates Nos. PwC-BarCap11225 through 11310,
15 marked for identification, as of this date.)
16 (Document review.)
17 A. Okay. I see this.
18 Q. Okay. Have you seen this document
19 before?
20 A. No, I have not, or I don't recall.
21 Q. Can you turn your attention to the
22 third page heading 10.2, "Positions prices using
23 other matrices, models or custodian price." The
24 first sentence says, "The following portfolio
25 sub-portfolios were fair-valued as follows." Do

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1 HIGHLY CONFIDENTIAL - Landreman
2 you see that?
3 A. Yes, I see that.
4 Q. Would you have been the person to
5 supply PwC with the information on how the PMTG
6 assets below were valued?
7 MR. THOMAS: Objection. Form.
8 A. PwC would have come to my team and
9 received all of its supporting detail for
10 everything that we performed in the valuations,
11 and they had their experts review everything we
12 did and they documented that here.
13 Q. So, taking a step back and discussing
14 the process by which you and your team would
15 have interacted with PwC, when did that process
16 start?
17 A. It was, as far as I could recollect,
18 it was nearly instantaneous. They are always,
19 you know, conversing with my team about
20 different sources. So when they started this
21 particular analysis, I couldn't give you the
22 exact date, but I'm sure it was -- they were
23 asking for data while we were still pricing the
24 portfolio and they were watching everything we
25 were doing while we were valuing the portfolio.

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1 HIGHLY CONFIDENTIAL - Landreman
2 movement as opposed to the valuation of?
3 A. Where the securities reside, in which
4 books or which legal entities or wherever they
5 are being managed, is a function of the line
6 controllers. The line controllers would give us
7 a list, a population of securities to value, and
8 we would value those securities and return the
9 results back to the line controllers and to the
10 business as well.
11 Q. I guess my confusion lies with how
12 does the JPM portfolio differ from the initial
13 inventory with respect to the valuation process
14 that would have been undertaken by your group?
15 A. Well, we priced it as of the dates
16 that we were told to price it as of. In terms
17 of the process, the securities which we received
18 from JPMorgan were even worse than these things
19 we received from Lehman Brothers. So it was a
20 little more difficult to value these securities
21 just because of the nature of the assets.
22 However, it was a similar process that
23 we used to price both portfolios.
24 Q. So in the section above 7, "Changes In
25 Measurement Dates - JPM Portfolio," do you see

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1 HIGHLY CONFIDENTIAL - Landreman
2 Q. And were you yourself the primary
3 communicator for your asset classes, or did
4 someone else on your team play that role?
5 A. I would have had the PwC auditors meet
6 with the analysts who performed the valuations.
7 Q. If you would take a look at the
8 section labeled 8, "Bid/offer - JPM Portfolio."
9 A. Where is that? Oh, Section 8?
10 Q. Section 8. Sorry. And do you see
11 where it says, "Due to the fact that all
12 positions were priced by the FO at 12/31, no
13 bid/offer was required at 12/31 to adjust the
14 traders' prices (and all PMTG positions were in
15 PMTG trading desks at 12/31 and not the PMTG
16 management book) prove?"
17 Do you know if that is an accurate
18 statement?
19 MR. THOMAS: Objection to form.
20 A. The physical movement from the
21 management book to the trading desk's books
22 would have been a line controller's function,
23 so...
24 Q. I'm sorry, could you explain that a
25 little bit more in terms of the physical

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1 HIGHLY CONFIDENTIAL - Landreman
2 where it says, "PT priced the JPM securities as
3 of December 22. FO priced the PMTG portfolio at
4 12/31 and PT performed independent price
5 verification as of that date." Do you see that?
6 A. Okay. Your question again was?
7 Q. You see that?
8 A. I see that, yes.
9 Q. And what does "PT" stand for?
10 MR. THOMAS: Objection to form.
11 A. Price testing.
12 Q. And would PT be a reference to your
13 group?
14 A. Right.
15 MR. THOMAS: Objection to form.
16 A. Or our function within the firm.
17 Q. And do you see the next line under 7
18 that says, "Management identified a significant
19 number of variances in the PMTG book between
20 December 22 and December 31"?
21 A. Yes, I do.
22 Q. Do you have an understanding of what
23 they mean by "management"?
24 MR. THOMAS: Object to the form.
25 A. We identified significant variances

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1 HIGHLY CONFIDENTIAL - Landreman

2 between the prices that we derived and Product
3 Control versus the prices that we did get on
4 12/31 from the business when the traders marked
5 the positions.

6 Q. And what was done with that variance?

7 A. We performed a detailed discussion and
8 a deep dive with the business in regards to the
9 individual assets just because these were --
10 were so bad. These securities were 1998
11 manufactured housing bonds. These were things
12 that nobody sees.

13 Q. And in terms of Barclays' acquisition
14 accounting, is it your understanding that the PT
15 price as of December 22 is the one that was
16 used?

17 MR. THOMAS: Objection to form.

18 A. I don't know which price they used.

19 Q. As a general matter, do you know which
20 prices, what prices were used for any CUSIP for
21 purposes of Barclays' acquisition accounting?

22 A. Not with certainty.

23 Q. Who made the decision of what price
24 would be used for purposes of Barclays'
25 acquisition accounting?

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1 HIGHLY CONFIDENTIAL - Landreman

2 FO or trader to value trades as the trading
3 experts and PT to independently verify FO marks.
4 Between September 22 and September 30, PMTG
5 transferred the majority of assets from the PMTG
6 management book to the PMTG trading desks
7 through an internal auction.

8 "As of September 30, front office
9 marked all positions and PT performed
10 independent price verification over the FO marks
11 in accordance with Barclays' policies and
12 procedures."

13 A. I see that.

14 Q. Is that an accurate statement?

15 A. That would be accurate.

16 Q. Earlier when we were discussing
17 internal sales prices, it was unclear whether or
18 not PT was valuing the securities independently
19 or were price testing the internal sales price.

20 Does this refresh your recollection?

21 A. As of 9/30, we would have had a trader
22 mark on the book. As of 9/22, we would not have
23 had a trader mark.

24 Q. So, for purposes of the price of the
25 position on September 22, your group had come up

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1 HIGHLY CONFIDENTIAL - Landreman

2 A. That, I don't know the answer to that.

3 Q. If you had to guess, who would make
4 that decision?

5 A. I would assume that whoever is
6 responsible for publication of the financial
7 statements would have opined on which values
8 were to be used.

9 Q. And when you say responsibility for
10 publication, who would that be?

11 A. Whether that was the Technical
12 Accounting Group, which would be Gary Romain's
13 group for the financial reporting, or if it was
14 all the way to Patrick Clackson or James Walker
15 in the U.S., somebody who was, you know, whose
16 name is responsible on the financial statements.

17 At this point, it may have been James
18 Walker in the U.S. I really don't know who
19 would have made that decision.

20 Q. If you would take a look under 5,
21 "Changes in Measurement Dates - Lehman
22 Portfolio." If you'll turn to the last
23 paragraph -- I'm sorry, second-to-last
24 paragraph, do you see where it says, "Barclays'
25 policies and procedures require the front office

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1 HIGHLY CONFIDENTIAL - Landreman

2 with its independent price through the process
3 that we discussed earlier?

4 A. Uh-huh.

5 Q. Is that correct?

6 A. Correct.

7 Q. And then later, come September 30,
8 there would be an internal sale within Barclays
9 that would generate a price which your group
10 subsequently price tested; is that correct?

11 MR. THOMAS: Objection.

12 A. I don't --

13 MR. THOMAS: Objection to form.

14 A. I don't know when the sale took place,
15 if it was any day in between there or if it was
16 September 30. I don't know the official trade
17 date of any securities that were transferred off
18 the top of my head.

19 Q. And do you know whether, for purposes
20 of Barclays' acquisition accounting, they
21 accounted for the majority, which is the way
22 that it is characterized here, the majority of
23 the PMTG assets acquired using the prices that
24 your group came up with with an earlier date in
25 September or if they accounted for it using the

35 (Pages 134 to 137)

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 internal sales price as of September 30?</p> <p>3 A. You would need to check with the</p> <p>4 accountants on that because I performed the</p> <p>5 valuations that we performed, and how the</p> <p>6 information we provided was used by the</p> <p>7 accountants was really a function of the</p> <p>8 accounting groups.</p> <p>9 Q. Would you agree that the value</p> <p>10 potentially would be different as of an earlier</p> <p>11 date in September that was over a week before</p> <p>12 September 30?</p> <p>13 MR. THOMAS: Objection to form.</p> <p>14 A. It depends which assets you're</p> <p>15 discussing. There may have been no change in</p> <p>16 value, depending upon the asset category, or</p> <p>17 there could have been, depending upon what</p> <p>18 happened in the markets during that time.</p> <p>19 Q. Was a process ever undertaken to</p> <p>20 compare the prices that your group had come up</p> <p>21 with as of the earlier date, the acquisition</p> <p>22 date, versus the internal sales prices within</p> <p>23 Barclays?</p> <p>24 A. I'm sorry, can you repeat that?</p> <p>25 Q. Was there a process by which the</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 internal sales prices as of September 30 were</p> <p>3 compared to the prices as of the acquisition</p> <p>4 date before a determination was made as to which</p> <p>5 to use for acquisition accounting?</p> <p>6 A. If you look at this attachment in</p> <p>7 section 5, PwC did a full review of the 9/22</p> <p>8 versus the 9/30 prices, as did we, and they</p> <p>9 reviewed our work.</p> <p>10 Q. And were you involved in that process?</p> <p>11 A. I would have been involved in that</p> <p>12 process for the review of the asset valuations.</p> <p>13 Q. But you were not involved in the</p> <p>14 decision of whether to use the 9/19 estimates as</p> <p>15 opposed to the 9/30 fair value estimates?</p> <p>16 A. I was not involved in the technical</p> <p>17 accounting aspects.</p> <p>18 Q. Do you know if any of the securities</p> <p>19 that were auctioned internally were offered to</p> <p>20 third parties in the market before they were</p> <p>21 acquired by Barclays' trading desks?</p> <p>22 A. I don't know that.</p> <p>23 Q. Do you know if the majority of assets</p> <p>24 in PMTG were amortizing assets?</p> <p>25 A. The majority of the assets in PMTG</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 were mortgage-related, so they would have been</p> <p>3 amortizing, yes.</p> <p>4 Q. And do you know what a remittance</p> <p>5 report is?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Could you explain what one is?</p> <p>8 A. A remittance report is published by</p> <p>9 the master trustee to present to the investors</p> <p>10 the performance of the trust and also show any</p> <p>11 cash inflows and outflows of the trust for that</p> <p>12 period of time. The remittance reports are</p> <p>13 generally prepared on a monthly basis, but some</p> <p>14 of the more esoteric assets may be produced on a</p> <p>15 quarterly basis.</p> <p>16 Q. Do you know for the amortizing assets</p> <p>17 the date of the remittance reports that would</p> <p>18 have been used to value the assets acquired?</p> <p>19 A. Well, depending upon the structure,</p> <p>20 the remittance reports may be issued on the 25th</p> <p>21 or the 26th. There are different dates that</p> <p>22 remittance reports are issued, depending upon</p> <p>23 the structure.</p> <p>24 Q. And do you know whether remittance</p> <p>25 reports for September 25th as opposed to August</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 25th were used for purposes of valuing the</p> <p>3 securities as of September 19?</p> <p>4 A. We would have been using the publicly</p> <p>5 available data as of the 22nd through the --</p> <p>6 with backdating the analysis to the date in</p> <p>7 question. So it would have been using the</p> <p>8 historical data, not the actual data from</p> <p>9 September.</p> <p>10 Q. So you would have used the September</p> <p>11 25th, but backdated it --</p> <p>12 A. When we opened the model, we would</p> <p>13 have used the data that was available in the</p> <p>14 model, but we would have asked the analysis to</p> <p>15 be as of a specific date, which would have</p> <p>16 ignored the updated information on the</p> <p>17 remittance report.</p> <p>18 Q. If valuing a security as of September</p> <p>19 19 and you had to enter a price on that day, and</p> <p>20 a September 25 remittance report would not be</p> <p>21 available, how do you account for that by</p> <p>22 using -- scratch that.</p> <p>23 Does the model, does making those</p> <p>24 inputs within your model take into consideration</p> <p>25 the fact that that information would not have</p>

<p style="text-align: right;">Page 142</p> <p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 been available as of September 19, or does it</p> <p>3 simply just back out, you know, a week's time?</p> <p>4 MR. THOMAS: Objection to form.</p> <p>5 A. The key driver in a securitized</p> <p>6 product valuation is the spread information that</p> <p>7 you input as well as any assumptions as it</p> <p>8 relates to prepayments or defaults, and our</p> <p>9 assumptions on the prepayments and defaults</p> <p>10 would have been driven on more generalized</p> <p>11 market parameters as opposed to, you know,</p> <p>12 something we would have found specifically in</p> <p>13 that bond's remittance report at that month.</p> <p>14 Q. So is it fair to say that the way it</p> <p>15 was done, the September 25th remittance report,</p> <p>16 to the extent it included any new pricing data,</p> <p>17 it really wouldn't have been used in the model?</p> <p>18 MR. THOMAS: Objection to form.</p> <p>19 A. We already owned a large portfolio of</p> <p>20 mortgage-backed securities, and we had been</p> <p>21 applying pricing and methodologies that were</p> <p>22 consistent with how we price our existing</p> <p>23 portfolio.</p> <p>24 We also owned our own mortgage</p> <p>25 originator and our own mortgage servicer at the</p>	<p style="text-align: right;">Page 143</p> <p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 time, and we had trend data that we used in the</p> <p>3 prediction or the estimation of the assumptions</p> <p>4 that we would use in our valuation.</p> <p>5 The remittance reports generally were</p> <p>6 confirming our view of the trends that we were</p> <p>7 using in our valuations.</p> <p>8 Q. So they were not inputs into your</p> <p>9 model, they were simply used to confirm the</p> <p>10 outputs that your model generated; is that</p> <p>11 correct?</p> <p>12 A. Unless there was a material deviation</p> <p>13 from our expectations of the performance of a</p> <p>14 bond on any given basis, generally the updates</p> <p>15 of the remittance reports had minimal effects on</p> <p>16 our valuations.</p> <p>17 Q. September 25th remittance reports were</p> <p>18 used and could have had some effect on your</p> <p>19 valuations, even if minimal, correct?</p> <p>20 A. Within -- potentially.</p> <p>21 Q. If I could have you also put in front</p> <p>22 of you what was previously marked 808B.</p> <p>23 A. Okay. 808B.</p> <p>24 Q. Turning your attention back to the</p> <p>25 e-mail we were looking at earlier from Sean</p>
<p style="text-align: right;">Page 144</p> <p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Teague dated September 15, Roman II, "ABS</p> <p>3 Testing," and reference to a matrix developed by</p> <p>4 your group for Alt A positions?</p> <p>5 A. Okay.</p> <p>6 Q. Was this matrix based on recent trade</p> <p>7 levels even where there was little trading</p> <p>8 activity?</p> <p>9 Forgive me for being a layperson, I</p> <p>10 might be butchering the terminology here, but</p> <p>11 could you just tell me about the matrix being</p> <p>12 used for Alt A securities?</p> <p>13 A. The prices that we observed for trades</p> <p>14 in the market was the market at the time. So</p> <p>15 there was limited trading, but there was</p> <p>16 trading. We did have a running trend of the</p> <p>17 trades so we were looking at what was happening</p> <p>18 pretty much every day for the prior six months,</p> <p>19 and every month we would calibrate these curves</p> <p>20 to the trades that we would see in the market.</p> <p>21 So, based upon the product and the</p> <p>22 vintage and the performance of that specific</p> <p>23 bond, we would track all of the trades and use</p> <p>24 that in the process of creating these spread</p> <p>25 matrices that we would apply toward comparable</p>	<p style="text-align: right;">Page 145</p> <p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 bonds.</p> <p>3 Q. And the same matrix would have been</p> <p>4 used for ultimately price testing the internal</p> <p>5 sales price within Barclays for any Alt A</p> <p>6 securities acquired from Lehman?</p> <p>7 A. For all securities.</p> <p>8 Q. For all Alt A securities?</p> <p>9 A. Yes.</p> <p>10 Q. And the same matrix would have been</p> <p>11 used for purposes of pricing the securities as</p> <p>12 of the acquisition date for all Alt A securities</p> <p>13 acquired?</p> <p>14 A. The prices derived in my group would</p> <p>15 have been derived using the models that we had</p> <p>16 internally.</p> <p>17 Q. And the models would have been the</p> <p>18 matrix that is --</p> <p>19 A. The data within the matrix would have</p> <p>20 been incorporated within the modeling of the</p> <p>21 bond.</p> <p>22 Q. And how would the bond have been</p> <p>23 modeled? What would the next step be after</p> <p>24 you've got a matrix? Those are your inputs for</p> <p>25 your model; is that correct?</p>

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2 A. Right.

3 Q. And what kind of model is it?

4 A. Well, there are vendor models like
5 Intex or, you know, Polypaths was another
6 application that we used which was really a
7 wrapper into Intex, or Bloomberg. There are a
8 number of vendored models that we were able --
9 we could use to price, for example, an Alt A
10 bond, we would take the spread assumption, the
11 discount rate that we would derive from our
12 observable trades because we had a number of
13 trades that traded at a specific spread, we
14 would have used that spread to -- or a
15 comparable spread to price this bond if they
16 were of comparable quality or of comparable
17 vintage and performance.

18 But we would look at all of the
19 parameters in the bond in a very detailed manner
20 to make sure that we were projecting what we
21 thought was going to be the real performance of
22 that bond going forward to derive a fair value.

23 Q. And would that include testing the
24 fundamentals of the underlying loans?

25 A. We would be looking at the performance

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2 of the bonds that composed the entire security.

3 Q. And are you aware of any document that
4 contains all of the inputs used for modeling Alt
5 A securities?

6 A. Yes, that would be part of our working
7 papers.

8 Q. I'm going to hand you what has been
9 previously marked as Deposition Exhibit 635A.
10 (Document review.)

11 Q. You ready?

12 A. Sure.

13 Q. This is an attachment behind a letter
14 from counsel that accompanied the production.

15 Have you seen the attachment before,
16 which is Bates-numbered 00302803?

17 A. Yes, I have.

18 Q. And can you tell me what it is?

19 A. Each of these boxes represents a
20 spread matrix that we would apply towards a
21 different asset category. So, for example, a
22 prime bond was, you know, the best quality
23 mortgages at the time. The LCR would stand for
24 a loss coverage ratio, which we would calculate.

25 There was a formula to say how much

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2 credit supporting existed within the structure,
3 and that loss coverage ratio, the higher the
4 ratio meant there was more credit support within
5 the bond to protect that investor from losses,
6 and as your loss coverage ratio would go down,
7 these spreads with widen to account for the
8 higher risk.

9 We calculated these spreads based upon
10 observable trades, where we would take any bond
11 that traded, we would look at the spread, and
12 then we would then graph and point out where the
13 loss coverage ratio was for that specific bond.
14 So we would be able to draw a curve that would
15 show where the loss coverage ratio could be or
16 should be in our matrix.

17 Q. Okay. To break that down a little
18 bit, is this the Alt A matrix that's referenced
19 in the document we had previously reviewed,
20 Deposition Exhibit 808B?

21 MR. THOMAS: Objection to form.

22 A. The three matrices on the top of this
23 page are Alt A matrices. So, prime, Alt A and
24 option ARMs are all considered, theoretically,
25 Alt A for -- in mortgage vernacular.

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2 Q. And the numbers within this matrix
3 would then, in turn, have been put into a model;
4 is that correct?

5 A. Correct.

6 Q. Are there any other inputs into that
7 model besides what's within this matrix, which
8 is the first page of the attachment?

9 A. Yes. There would be a prepayment
10 speed assumption.

11 Q. And would that input be somewhere
12 within this same document?

13 A. It should be, however I'm not able to
14 read the attachments clearly in the handout you
15 have given me.

16 Q. We can pull it up electronically,
17 which I would rather not, but provided that this
18 copy is not the best, does it look as though
19 it's the type that would contain that
20 information, or should I bring up --

21 A. The spreadsheet should contain some of
22 the other assumptions that were used, but I
23 don't know if I see it in this version of the
24 spreadsheet.

25 Q. It's my understanding, you know, and

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2 we can have this conversation off the record if
3 you prefer, that based on the production letter
4 and our conversations for this type of material,
5 that this is it, this is what's supposed to
6 include that information, it's the backup.
7 And we can pull up the e-mail that's
8 referenced in Boies Schiller's February 22
9 letter dated -- the e-mail dated February 18
10 that's referenced for further discussion about
11 it. I just would like to know, if not in this
12 type of document, where would we find the other
13 assumptions that would have been used?
14 A. I mean, this spreadsheet was a
15 presentation that was the discount margin
16 application and then the pricing results. So if
17 you needed to see the prepayment assumptions
18 that were used, they could be provided.
19 That may have been a column that was
20 hidden in this spreadsheet that was hidden when
21 it was printed. There was lots of data
22 underlying these models, so ...
23 Q. In addition to the matrix and the
24 prepayment input, what other sorts of inputs
25 went into the model and are they captured within

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2 A. No, I have not.
3 Q. Will you turn to page 5 of this
4 document, actually, at the very bottom of page
5 4, and the chart has a row related to non-agency
6 mortgage-backed securities and then a column
7 about the procedures performed by PwC followed
8 by a column of the observations/conclusions PwC
9 reached.
10 Without asking you to sit here and
11 read all of it, similar to what we previously
12 marked as Deposition Exhibit 813B, which was a
13 PwC e-mail recording --
14 A. 813B, okay.
15 Q. What, if any, role did you have in
16 supplying this information to PwC?
17 A. We provided PwC with all of our
18 working documentation and all of the paperwork
19 that they requested to perform a full audit of
20 the fair value process that we performed.
21 Q. If you look at page 5 of 646A, and you
22 see within the document are embedded
23 spreadsheets, including you can see an
24 attachment called Matrix Comparison Summary.xls,
25 and then below that, Matrix Comparison (#3).

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2 this document?
3 A. I mean, there's a lot of information
4 that we used in the valuation of a security
5 which we boiled down to a, you know, loss
6 coverage ratio and a discount margin that I
7 would not -- that I don't see on this specific
8 spreadsheet.
9 Q. And where would you keep that type of
10 information?
11 A. Again, in the working files. We
12 downloaded indicative data. We download data
13 about the performance of the bonds in our
14 spreadsheets. And the working files get so
15 large that, in order to print a report out that
16 would fit on a spreadsheet, you would make it
17 smaller for the printout and, depending upon who
18 requested the data, we would present that data
19 that they requested. So ...
20 Q. If you could just put that aside and
21 we put before you a document that's previously
22 been marked Deposition Exhibit 646A.
23 A. Yes.
24 Q. Have you ever seen this document
25 before?

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2 Scratch that.
3 (Recess; Time Noted: 3:14 P.M.)
4 (Time Noted: 3:27 P.M.)
5 (Exhibit 814B, a document bearing
6 Bates Nos. PwC-BarCapWP_23318 through 23351,
7 marked for identification, as of this date.)
8 BY MS. CARRERO:
9 Q. Mr. Landreman, I have put before you
10 what has been marked as Deposition Exhibit 814B.
11 If you could turn your attention to the third
12 page, there is an e-mail from Andrew Pickett to
13 you and Mr. Teague dated December 18, subject:
14 "Lehman Acquisition Prices." Do you see that?
15 A. Page 3, yes, I see that.
16 Q. And do you see Mr. Pickett writes,
17 "Sean and Rich, we are trying to close out our
18 documentation of the positions acquired from
19 Lehman, and had two points of clarification to
20 run by you:
21 "1. Is the 10 to 25 percent liquidity
22 haircut at 9/30 applied to call BarCap CDO/CLO
23 positions or the Lehman/JPM acquisition
24 positions?"
25 Do you see that?

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2 A. I see that.

3 Q. Are liquidity haircuts at September 30
4 applied to all of Barclays' CDO/CLO positions as
5 of that date, or is it only to the Lehman/JPM
6 positions that were acquired?

7 A. You probably need to speak to Sean
8 about this specific question because, in terms
9 of the application of the liquidity haircuts as
10 of 9/30, I wasn't involved in the application of
11 that for the different portfolios.

12 Q. Would the CDO/CLO positions be within
13 your group or Teague's group?

14 A. The CDO/CLO positions for Barclays
15 would have been in my group. They would not
16 have been applied on the Barclays' positions.
17 However, I don't know if at 9/30 they were being
18 applied to the Lehman/JPMorgan positions.

19 I thought we were pricing these as of
20 an acquisition date with the liquidity haircuts
21 and then the business would have priced this the
22 30th. But Sean might be able to clarify that
23 for you.

24 Q. Was your group, as of September 30,
25 applying liquidity haircuts in the range of 10

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2 to 25 percent on other CDO positions owned by
3 Barclays at that time?

4 A. Not where we had trader prices.

5 Q. Would the trader's price have included
6 a liquidity haircut of anywhere in the
7 neighborhood of 10 to 25 percent?

8 MR. THOMAS: Objection to form.

9 A. The trader's price would have been
10 reflective of fair value.

11 Q. And would fair value include a
12 liquidity haircut of in the range of 10 to 25
13 percent?

14 MR. THOMAS: Objection to form.

15 A. I don't understand that question.

16 Q. Isn't it your group's role to price
17 test the trader's mark?

18 A. Correct.

19 Q. If in that price testing you were to
20 determine that the trader's mark included a 10
21 to 25 percent liquidity haircut, would that
22 constitute a fair value mark?

23 A. The trader would not be giving us a --
24 the trader would give us a single mark and we
25 would test that mark against data that we see in

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2 the market.

3 Q. Do I understand that to mean that it
4 is PT, meaning your group, as opposed to the
5 front office that would be the one to apply a
6 liquidity haircut, if one was to be applied?

7 MR. THOMAS: Objection to form.

8 A. Well, the liquidity adjustments that
9 were made in the opening balance sheet were more
10 a function of, or at least my understanding is
11 that those were a function of not having trader
12 marks on those specific positions, and then once
13 the traders marked those positions, the
14 liquidity adjustments would be removed.

15 Q. So, in the ordinary course, if you had
16 a trader's mark, there would be no need for a
17 liquidity adjustment; it's only in the absence
18 of one that a liquidity adjustment would be
19 added?

20 MR. THOMAS: Objection to form.

21 A. I think it's dependent upon the intent
22 of the analysis and what the -- which portfolios
23 we were talking about, which positions
24 specifically.

25 Q. I'm just trying to get an

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2 understanding. It's month-end, it's September
3 30, and you have positions that are within your
4 group's responsibility which includes CDOs.

5 Are you applying liquidity haircuts to
6 all CDO positions that Barclays owns, or is it
7 only with respect to those acquired from Lehman?

8 MR. THOMAS: Objection.

9 A. It was my understanding that the
10 liquidity adjustments were really only applied
11 on the opening day balance sheet. So the 9/30
12 valuation for the CDO/CLO positions that were
13 already on Barclays' balance sheets would not
14 have received liquidity adjustments.

15 Q. And then what would happen the
16 following day, October 1? What price would be
17 reflected for those same CDO positions that had
18 a 10 to 25 percent liquidity haircut as of
19 September 30?

20 A. I never said there was a liquidity
21 haircut as of September 30.

22 Q. When was there a liquidity haircut as
23 of?

24 A. The opening balance sheet? As of --
25 was that September 22 or --

40 (Pages 154 to 157)

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2 Q. So the day after the acquisition
3 balance sheet, let's say, is there going to be a
4 liquidity haircut for any position --

5 MR. THOMAS: Objection to form.

6 Q. -- on Barclays' balance sheet?

7 A. The traders would have marked the
8 positions to fair value.

9 Q. Is there a system within Barclays that
10 enables one to pull up what the marks are for
11 each CUSIP as of the day after the acquisition?

12 A. I don't know if all of these assets --
13 I don't know where daily pricing would have been
14 stored on some of these assets. It depends on
15 which business they were in and which front
16 office system they were entered into.

17 Q. But it would exist somewhere within
18 Barclays' information as to the mark on the day
19 after the acquisition --

20 A. Potentially.

21 Q. -- balance sheet date?

22 And any increases or decreases to the
23 value from the date of the acquisition balance
24 sheet would then be recorded as P&L; is that
25 correct?

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2 Q. And then attached, do you see a
3 document titled "Lehman Open Balance Sheet,
4 Barclays Capital Valuation Methodology"?

5 A. Yes.

6 Q. Did you assist in the preparation of
7 this document?

8 A. I don't recall.

9 Q. If you'll look at the A(I)(ii),
10 illiquid asset category, the third bullet down,
11 "Haircut - due to liquidity issues, following
12 logic was devised to best capture market price.
13 Lehman assets which were sold (auctioned by the
14 PMTG) prior to month-end, are considered trades
15 and therefore the traded price was applied with
16 no haircut. If a security was not auctioned by
17 September 30, the PMTG desk was utilized with
18 liquidity haircut applied to desk mark to bring
19 it to a fair value under the extenuating market
20 conditions."

21 Do you see that?

22 A. I see that.

23 Q. Where an internal sale price was used,
24 no haircut was applied; is that correct?

25 MR. THOMAS: Object to the form.

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2 MR. THOMAS: Objection to form.

3 A. That would be my understanding, yes.

4 Q. And would your group price test the
5 prices that were ascribed to each security on
6 the day after the acquisition balance sheet?

7 A. No. We would price test at the end of
8 the month.

9 Q. There would be no price test of the
10 day after the acquisition; is that correct?

11 A. That would be correct.

12 (Exhibit 815B, a document bearing
13 Bates Nos. PwC-BarCap 45782 through 45787,
14 marked for identification, as of this date.)

15 Q. Mr. Landreman, you have before you
16 what has been marked Deposition Exhibit 815B.
17 If you could take a look at the e-mail at the
18 bottom of the first page, which is from Mr.
19 Teague to yourself, among others. It's dated
20 January 28, and it says, "Chris, I put the
21 following overview together for PwC, as I will
22 be out of the office the remainder of the week.
23 Please contact Rich Landreman in my absence."

24 Do you see that?

25 A. Yes.

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2 A. Bullet 1, where Lehman assets were
3 sold, auctioned, prior to month-end are
4 considered trades and therefore trade prices
5 applied with no haircut, you know, I would agree
6 with that.

7 Q. Do you know what happened to any
8 assets that were not auctioned to a desk within
9 Barclays?

10 A. They stayed at PMTG.

11 Q. PMTG is a desk within Barclays,
12 though, correct?

13 A. Correct.

14 Q. And are you simply distinguishing
15 between PMTG being the original receiver of the
16 assets as of the acquisition date and,
17 therefore, being the seller of those securities?

18 MR. THOMAS: Objection to form.

19 A. My understanding was that PMTG took
20 all of the assets into a high-level management
21 account and then distributed or auctioned off
22 all of the assets or moved all of the assets out
23 to trading desks, and whatever was left over was
24 left in the PMTG business, whether it was at the
25 high level at the management or if it was

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2 distributed to one of the PMTG trading desks.

3 Q. Do you know if any of those desks to
4 which these securities were auctioned were then
5 being run by former Lehman individuals?

6 A. I was not aware of any Lehman
7 individuals in PMTG.

8 Q. The auction of these securities was to
9 desks beyond PMTG, correct?

10 A. Correct.

11 Q. So the desks purchasing the securities
12 from PMTG would presumably include desks then
13 being run by former Lehman individuals; is that
14 correct?

15 MR. THOMAS: Objection to form.

16 A. I'm not aware of any desks for the
17 products I cover that were being run by former
18 Lehman people.

19 Q. At the point in time of the sale,
20 September 30, there were a number of former
21 Lehman employees that were at that point
22 employed by Barclays; is that correct?

23 A. I believe so, yes.

24 Q. And that would include former Lehman
25 individuals that were on desks in the front

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1 HIGHLY CONFIDENTIAL - Landreman
2 office that would be purchasing these securities
3 for their books; is that correct?

4 MR. THOMAS: Objection to form.

5 A. Yes.

6 Q. And those individuals would be
7 familiar with those assets, having had exposure
8 to them while at Lehman; is that correct?

9 MR. THOMAS: Objection to form.

10 Foundation.

11 A. I don't know that.

12 Q. Were former Lehman traders consulted
13 with respect to the valuation of the securities
14 within the internal auction process?

15 MR. THOMAS: Objection to form.

16 A. If there were internal -- if there
17 were Lehman, former Lehman employees involved in
18 the bidding process, they would have been people
19 that were in the flow of businesses, and as I
20 said, those businesses had been managed by
21 Barclays people, but they had brought in some
22 staff from Lehman in certain areas. But the
23 management was always Barclays.

24 Q. But former Lehman people who were
25 responsible for marking positions while they

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2 were at Lehman would potentially have been in a
3 position to buy back securities they had priced
4 at X while at Lehman for a lower price at
5 Barclays; is that correct?

6 A. I wouldn't know because I don't know
7 where Lehman had these assets on their books.

8 Q. Mr. Landreman, I have put before you
9 what has been previously marked as Deposition
10 Exhibit 643A. Take a moment to take a look.

11 (Document review.)

12 A. Yes, I see that.

13 Q. And it was your group that had
14 responsibility for valuing the Agency RMBS,
15 correct?

16 A. Correct.

17 Q. And a 10 percent liquidity haircut was
18 applied to Agency RMBS, correct?

19 A. A 10 percent liquidity adjustment was
20 applied towards agency CMOs, not the entire
21 portfolio of Agency RMBS. Only a 1 percent
22 adjustment was applied towards the pools and the
23 pass-throughs.

24 Q. And Deposition Exhibit 643A is a memo
25 from you to PwC dated February 2, 2009, subject

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1 HIGHLY CONFIDENTIAL - Landreman
2 line: "RMBS Portfolio Acquired From Lehman -
3 bid/offer Reserve Agency CMOs," correct?

4 A. Correct.

5 Q. And this document provides the
6 methodology by which your team arrived at a 10
7 percent liquidity adjustment for agency CMOs; is
8 that correct?

9 A. That's correct.

10 Q. In your method 1, where did you take
11 your price observations from?

12 A. From the data that we received from
13 the Bank of New York, from our pricing vendors,
14 and also from our own prices that we derive. It
15 was really a dispersion analysis of pricing for
16 the different -- for the various products.

17 Q. And do you know which pricing vendors
18 were used?

19 A. IDC -- or, FTID.

20 Q. Is that the only one?

21 A. We also would have potentially used
22 Street software. Street Analytics, I think it
23 is called.

24 Q. Is that it?

25 A. That would be it.

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Q. And when you said "our prices," what</p> <p>3 did you mean by that?</p> <p>4 A. The values that we derived using our</p> <p>5 internal modeling methodologies for agency CMOs.</p> <p>6 Q. And what was your internal modeling</p> <p>7 methodologies for CMOs, agency CMOs?</p> <p>8 A. We would use an internal OAS model,</p> <p>9 which we would look at observable trades, when</p> <p>10 available, and solve for option-adjusted spreads</p> <p>11 for those specific asset categories and apply</p> <p>12 that towards the portfolio by asset category.</p> <p>13 Q. And what definition of "bid/offer</p> <p>14 spread" are you using within this methodology</p> <p>15 for determining the liquidity adjustment?</p> <p>16 A. I mean, in terms of applying a</p> <p>17 bid/offer, it's -- method 2 was really more of a</p> <p>18 bid/offer analysis where we showed buys and</p> <p>19 sells on the same day. We showed which bonds we</p> <p>20 bought and what we sold, and although it was not</p> <p>21 an instantaneous buy and sell, these types of</p> <p>22 transactions generally tend to be negotiated</p> <p>23 ahead of time. So you would only buy a position</p> <p>24 like this if you had an outlet to distribute it,</p> <p>25 so at least we had the observation that it went</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 in and went out at the same day. But again, to</p> <p>3 say that it was instantaneous within the minute,</p> <p>4 I can't prove that.</p> <p>5 In terms of method 1, that was more of</p> <p>6 a price dispersion amongst different points that</p> <p>7 were available, and the largest dispersion</p> <p>8 occurred in the categories where the majority of</p> <p>9 the bonds were concentrated. I think the last</p> <p>10 paragraph where we said that we applied a 10</p> <p>11 percent bid/offer as a proxy, subordinated by</p> <p>12 both methods, 75 percent of the portfolio was</p> <p>13 highly structured IO, PO and Z bonds, and the</p> <p>14 majority of these bonds, you know, this supports</p> <p>15 the use of an average, as the trade sample was</p> <p>16 skewed by the high number of derivative trades</p> <p>17 reflected in the trade sample.</p> <p>18 So the trade sample had high levels of</p> <p>19 derivatives which showed the bid/offer</p> <p>20 adjustment in the 15 to 20 percent range, which,</p> <p>21 again, when we did the original analysis on the</p> <p>22 pricing dispersion, we saw that there was a high</p> <p>23 level of dispersion amongst those derivative</p> <p>24 assets which really comprised the bulk of the</p> <p>25 portfolio.</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Q. Are bid/offer spreads generally</p> <p>3 simultaneous at a particular moment in time?</p> <p>4 MR. THOMAS: Objection to form.</p> <p>5 A. A bid/offer spread in its technical</p> <p>6 sense for a product that trades regularly and</p> <p>7 you have observability would be, you know, as</p> <p>8 close as possible to a buy and sell</p> <p>9 instantaneously. In a market where positions</p> <p>10 are traded randomly or as negotiated sales were</p> <p>11 a buy and a sell will occur on the same day,</p> <p>12 it's considered that these bid/offer spreads</p> <p>13 would be indicative of a true, you know, almost</p> <p>14 what a bid/offer should be.</p> <p>15 But there's lots of -- in terms of</p> <p>16 bid/offer spread on the agency CMO world, it's</p> <p>17 less clear than, say, the Treasuries or agency</p> <p>18 debentures, where there's more trading activity</p> <p>19 and more observability.</p> <p>20 Q. Were these actual trading prices?</p> <p>21 A. The spreadsheet that we provided you</p> <p>22 were actual trades with the trade date and the</p> <p>23 amount of the trade.</p> <p>24 Q. So they're actual trades as opposed to</p> <p>25 price indications?</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And how was the sample size of</p> <p>4 39 agencies CMO bonds assembled?</p> <p>5 A. For the timeframe that we selected,</p> <p>6 these were all the trades where we had buys and</p> <p>7 sells on the same date.</p> <p>8 Q. Is there a point at which the sample</p> <p>9 size would not have been adequate in order to</p> <p>10 derive a liquidity adjustment from the available</p> <p>11 actual trades?</p> <p>12 MR. THOMAS: Objection to form.</p> <p>13 A. Again, this analysis was a secondary</p> <p>14 analysis to support the concept of a liquidity</p> <p>15 adjustment based upon the observability of</p> <p>16 pricing dispersion, in addition to, you know, a</p> <p>17 sample of bid/offer spreads at this time in the</p> <p>18 market. It was, in our opinion, although the</p> <p>19 data may have been limited, it was the best</p> <p>20 available data at the time.</p> <p>21 Q. In using this benchmark portfolio in</p> <p>22 method 2, did you take into consideration</p> <p>23 whether the positions within it were inverse IOs</p> <p>24 as opposed to other types of agency CMOs?</p> <p>25 A. We put the collateral or the structure</p>

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<p>1 HIGHLY CONFIDENTIAL - Landreman 2 as part of the analysis. 3 MS. CARRERO: We'll take a look to see 4 whether that has been, but if not, we would 5 ask that that sort of information be 6 provided. 7 MR. THOMAS: Why don't you shoot us an 8 e-mail. 9 MS. CARRERO: That's fine. We can 10 discuss after. 11 Q. What was the source of discount rates 12 used to discount cash flows? 13 A. For which products? 14 Q. Still related to the agency CMOs 15 and -- 16 A. That's what the option adjusted spread 17 would be. 18 Q. And were these rates risk-free or did 19 think involve a measure of risk premium? 20 A. Explain what you mean, please. 21 Q. I'm unable to do that, so if that 22 term -- do you not -- are those not terms that 23 you're familiar with, "risk-free"? 24 A. I'm familiar with "risk-free." It's 25 just a context of the question being asked. You</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman 2 know, it's not clear. 3 Q. The inputs that were being inserted 4 into this model, were these rates, I mean, were 5 the discount rates that were inputs into the 6 model, were they risk-free, or did they involve 7 a measure of risk premium? 8 MR. THOMAS: Objection to form. 9 A. For the agency mortgage-backed 10 securities, the spreads would be based upon our 11 observable trade data, so that would imply some 12 level of a risk premium to that. 13 Q. How many interest rate paths were 14 used? 15 A. 256. 16 Q. Are you aware of any other firms that 17 use a static interest rate assumption for 18 mortgage analytics? 19 A. We don't. 20 Q. And what would be your definition of a 21 static interest rate assumption that -- 22 A. A single path. 23 Q. And a single path is not what your 24 model is; is that what you're saying? 25 A. Correct.</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman 2 Q. And if not a single path, what is it? 3 A. We ran 256 paths. 4 Q. If you could turn back to 643A. Were 5 any of the trades used in method 2 in the 6 benchmark portfolio trades between interested 7 parties? 8 A. I'm sorry? 9 Q. Were they trades between Lehman and 10 Barclays, for instance? 11 MR. THOMAS: Objection to form. 12 A. I don't know that. 13 Q. Are they interdealer trades? 14 A. I would have to look at the detail of 15 the trade data who the counterparty was. 16 Q. Do you know if the trades were 17 brokered? 18 A. Again, I would need to see who the 19 counterparty was. 20 Q. Is there a file that would have that 21 information of who the counterparties are to 22 these trades in the benchmark portfolio? 23 A. That would be, yes. 24 (Exhibit 816B, a document bearing 25 Bates Nos. PwC-BarCap 48233 through 48236,</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman 2 marked for identification, as of this date.) 3 Q. Mr. Landreman, you have before you 4 what has been marked as Deposition Exhibit 816B. 5 A. Yes. 6 Q. Have you had a chance to review the 7 document? 8 A. Not yet. 9 Q. Let me actually shortcut this and turn 10 you to the third page -- I'm sorry, second page, 11 an e-mail from you to PwC dated February 3. 12 A. Uh-huh. 13 Q. If you would just -- and it's 14 questions on -- it's titled "Questions on 15 Barclays CMBS." If you could just take a second 16 to read that e-mail? 17 A. This piece I read. 18 Q. For CUSIP 589929PT9? 19 A. Uh-huh. 20 Q. In your attempt to justify a price of 21 \$5.52, part of your explanation involves the 22 fact that the CUSIP paid off in December 2008, 23 correct? 24 A. I need to check and see if it was paid 25 off or if that was a loss allocated to wipe the</p>

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2 that. I don't recall that.

3 Q. If I were to represent to you that a
4 significant number of CMBS securities acquired
5 were valued at the internal sales price, would
6 that surprise you?

7 MR. THOMAS: Objection to form.

8 A. No, it would not.

9 Q. And similar to your earlier testimony,
10 for CMBS securities, does the same apply where
11 PT undertook valuation as of the acquisition
12 date separate from the internal sale price
13 ultimately recorded for acquisition accounting
14 purposes?

15 A. We would have performed a similar
16 process where we valued our securities and
17 compared our values to BoNY prices, any vendor
18 prices, and if we were to receive a trader mark
19 or a trade price, we would have compared our
20 prices to that at different points in time
21 during the analysis.

22 Q. And at different points in time, you
23 mean during your ordinary course price testing
24 at the end of the month, September 30; is that
25 correct?

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2 or another business function that is not related
3 to the flow trading desk.

4 Q. Did you or your group have any
5 involvement in pricing the Giants Stadium Bonds
6 that were acquired through the Lehman
7 transaction?

8 A. That was not priced in my group.

9 Q. And do you know whose group did
10 undertake primary responsibility for valuing the
11 Giants Stadium Bonds?

12 A. That work was performed primarily in
13 Sean's world under Corporate Credit.

14 Q. And do you know if there was front
15 office involvement in the pricing of the Giants
16 Stadium Bonds as well?

17 A. I don't have personal knowledge of
18 that.

19 Q. If you were to guess who else might
20 have been involved in the pricing of Giants
21 Stadium Bonds, what would be your best guess?

22 A. Based upon my understanding of the
23 complexity of that structure and the lack of
24 data and the type of securities that were
25 involved, the desk would have been involved in

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2 A. Correct.

3 Q. But that price testing would not
4 necessarily affect the acquisition accounting
5 price that was ultimately used, is that correct?

6 MR. THOMAS: Objection to form.

7 A. It depends upon the variance itself
8 and the dialogue that was around the price, if
9 there was a large discrepancy.

10 Q. Internal sales prices, would they
11 normally be used as a fair value mark for a
12 security?

13 MR. THOMAS: Objection to form.

14 A. If the prices were reviewed and
15 determined to be fair value, yes.

16 Q. Those trades wouldn't constitute an
17 arm's length transaction, though, would they?

18 MR. THOMAS: Objection to form.

19 A. Depends who the trades were between.

20 Q. If the trade is between two desks
21 within Barclays, is that an arm's length
22 transaction?

23 MR. THOMAS: Objection to form.

24 A. It depends if they're part of the same
25 business or if it's the proprietary trading desk

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2 that.

3 Q. And what desk would that be?

4 A. Would have been the PMTG desk.

5 Q. And that at the time would have been
6 run by Stephen King; is that correct?

7 A. Yes.

8 Q. Mr. Landreman, I have handed you what
9 has been previously marked as Deposition Exhibit
10 533A. If you take a moment to take a look at
11 that.

12 A. Okay.

13 Q. Have you seen this document before?

14 A. No.

15 Q. Can you take a look at the second
16 page, where it says "PMTG \$7.2 billion," do you
17 see that?

18 A. Okay.

19 Q. Do you know whether a process was
20 undertaken to ascertain what gains Barclays
21 realized on PMTG assets it had acquired from
22 Lehman as of December 31?

23 A. I'm not aware of that.

24 Q. Would that have involved you or your
25 group?

47 (Pages 182 to 185)

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2 A. As of December 31, we would have price
3 tested the portfolio, and the line controllers
4 would have had to have performed any accounting
5 reconciliation for P&L that was incurred during
6 the quarter because there's a number of factors
7 that would contribute to a P&L number that are
8 not specific to marked to market accounting.

9 Q. And is the price testing that's done
10 at your end any different than the monthly price
11 testing?

12 A. It would be the same process.

13 Q. And would it be the controllers that
14 would be the ones to monitor any hedging
15 activities with respect to the assets acquired
16 in the Lehman transaction?

17 A. What do you mean, "monitoring the
18 hedging activity"?

19 Q. In connection with the controller's
20 function of recording P&L, would that process
21 involve any hedges that were placed on any of
22 the acquired securities?

23 A. I'm not a line controller, so my
24 understanding is that they will perform a P&L on
25 all of the books that are comprised of a

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2 business, and some of those books may contain
3 hedges.

4 Q. In valuing any of the securities that
5 were transferred over from Lehman, did you or
6 your group take into consideration whether any
7 of the positions were hedged in your valuation?

8 A. For my portfolios, the hedges would be
9 irrelevant and they would be valued
10 independently. The cash positions are valued
11 independently and the hedges would be valued
12 independently.

13 MS. CARRERO: You want to take a
14 five-minute break?

15 MR. THOMAS: Sure.

16 (Recess; Time Noted: 4:35 P.M.)

17 (Time Noted: 4:43 P.M.)

18 BY MS. CARRERO:

19 Q. Mr. Landreman, do you know who
20 Professor Paul Pfleiderer is?

21 A. I have heard the name.

22 Q. Have you -- let me first ask, are you
23 aware that Barclays has retained him as an
24 expert in this matter?

25 A. Yes, I am.

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2 Q. And have you had any meetings or
3 conversations with him?

4 A. I don't recall. I've had numerous
5 conference calls with people.

6 Q. So I guess there's no point in asking
7 how long the meeting was.

8 Are you aware of other people within
9 price testing that have met or communicated with
10 Professor Pfleiderer?

11 A. I don't know that they have met or
12 communicated with Professor Pfleiderer, but I
13 have been in conference calls with my colleagues
14 who have been on the phone with lawyers and he
15 may have been in the calls, but I don't know. I
16 don't recall.

17 Q. Did you or any of your staff provide
18 documents to Professor Pfleiderer?

19 A. I'm not aware of providing him with
20 anything directly. Anything that I would have
21 provided to PwC or to the lawyers, you know, I
22 don't know if he was a recipient of that
23 information directly from us.

24 Q. Did you have any meetings or
25 conversations with any of Professor Pfleiderer's

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2 staff?

3 A. I think I did. I don't know who they
4 were or the context of those calls.

5 Q. And --

6 A. I don't recall the calls themselves.

7 Q. And when would these calls have taken
8 place?

9 A. Anytime in the last year. I'm not
10 sure when he was contracted or, you know, I'm
11 regularly on the phone with the lawyers and the
12 auditors for various reasons.

13 Q. With respect to PwC's audit, how does
14 the price testing that they undertook differ
15 from that which your group undertook?

16 A. My understanding of the PwC pricing
17 review process is a detailed examination of the
18 policies and procedures, the control points that
19 we claim we execute. So they will go through
20 and replicate what we say we do and then confirm
21 that we actually do what we say we're doing.

22 So they go very in detailed and they
23 test a spread matrix application and ask us why
24 this bond didn't, you know, did or did not get
25 applied a spread that we said it would have, and

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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 then we explain why and then they look at that</p> <p>3 and then they -- they review all of our data, in</p> <p>4 addition to performing their own pricing, which</p> <p>5 is all done internally at on their site, which</p> <p>6 they don't share that with us. And then they</p> <p>7 come back with their opinions and any questions</p> <p>8 they have around the results themselves and also</p> <p>9 the process.</p> <p>10 So they do look in detail at the</p> <p>11 process that we perform and review that process</p> <p>12 in addition to the actual values and results.</p> <p>13 Q. So would it be accurate to say that</p> <p>14 they do not undertake independent valuation of</p> <p>15 any of the securities at the price testing?</p> <p>16 A. I didn't say that. They do perform an</p> <p>17 independent test in their -- internally on their</p> <p>18 own site and then produce that analysis, which</p> <p>19 they do not share with us. So they don't tell</p> <p>20 us their values. They just tell us if they</p> <p>21 believe our values are reasonable.</p> <p>22 Q. Do they model securities themselves?</p> <p>23 A. They have that capability.</p> <p>24 Q. Do you know if that ordinarily is part</p> <p>25 of the price testing that they undertake?</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 MR. THOMAS: Objection to form.</p> <p>3 A. As I said, they don't share any</p> <p>4 results with us of their analyses. So they do</p> <p>5 have people who I know ask about the assumptions</p> <p>6 and claim to model, but they don't show me the</p> <p>7 results of their model and they don't show me</p> <p>8 the detail of their work.</p> <p>9 Q. So you don't know whether they do or</p> <p>10 they don't model securities; is that correct?</p> <p>11 A. I know they have the capacity to model</p> <p>12 securities. I cannot tell you that I -- for</p> <p>13 certain that they modeled our pricing because</p> <p>14 they don't show me those results.</p> <p>15 Q. And do you know whether Professor</p> <p>16 Pfleiderer or his staff who were retained by</p> <p>17 Barclays, whether they have independently sought</p> <p>18 prices and modeled the securities?</p> <p>19 A. I don't know what Professor Pfleiderer</p> <p>20 was tasked to perform.</p> <p>21 Q. And have you been shown his report and</p> <p>22 had an opportunity to read it?</p> <p>23 A. I have read his report, yes.</p> <p>24 Q. And was that prior to the serving of</p> <p>25 his report or was that in connection with your</p>
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<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 deposition today?</p> <p>3 MR. THOMAS: Objection to form.</p> <p>4 A. I don't know when his report was</p> <p>5 served, so I couldn't tell you if it was before</p> <p>6 it was being served. I know that it was within</p> <p>7 the last, you know, couple months that I have</p> <p>8 seen his report in conjunction with other</p> <p>9 reports related to this case.</p> <p>10 Q. Were you asked to comment on his</p> <p>11 report and provide comments or edits in the</p> <p>12 finalization process?</p> <p>13 MR. THOMAS: Well, I mean, you're</p> <p>14 excluding conversations with lawyers, right?</p> <p>15 I mean, if the attorneys had conversations</p> <p>16 with you about any subject relating to</p> <p>17 providing the legal advice for this case,</p> <p>18 then that's going to be privileged.</p> <p>19 MS. CARRERO: Well, I guess we don't</p> <p>20 need to get there.</p> <p>21 Q. I'm trying to understand whether you</p> <p>22 had it in front of you and had the opportunity</p> <p>23 to comment on it.</p> <p>24 MR. THOMAS: Well, he said he reviewed</p> <p>25 it. So, I mean --</p>	<p>1 HIGHLY CONFIDENTIAL - Landreman</p> <p>2 Q. Within the last -- I'm trying to</p> <p>3 understand, did he review it after the report</p> <p>4 was final or did you review it and were part of</p> <p>5 the editing process of it.</p> <p>6 MR. THOMAS: I think that's been asked</p> <p>7 and answered.</p> <p>8 A. I don't recall being part of the</p> <p>9 editing process of his work papers.</p> <p>10 MS. CARRERO: I think that's it. If</p> <p>11 you want to take five minutes.</p> <p>12 MR. THOMAS: I'm ready to go. I just</p> <p>13 have a few questions.</p> <p>14 MS. CARRERO: Does anyone else have</p> <p>15 questions?</p> <p>16 MR. McCOUBREY: No questions.</p> <p>17 MR. DAKIS: I just have one follow-up</p> <p>18 question.</p> <p>19 EXAMINATION BY</p> <p>20 MR. DAKIS:</p> <p>21 Q. Robert Dakis from Quinn Emanuel for</p> <p>22 the Official Committee of Unsecured Creditors.</p> <p>23 During the last line of questioning,</p> <p>24 you were asked if you saw Professor Pfleiderer's</p> <p>25 report, and you testified that you reviewed it</p>

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2 in connection with reviewing a number other
3 reports related to this case; is that correct?

4 A. Correct.

5 Q. Can you tell us if you remember what
6 the other reports you reviewed are?

7 A. I mean, I was asked to respond to some
8 of the --

9 MR. THOMAS: Well, if you're going to
10 go into conversations with attorneys,
11 counsel, in-house or outside counsel, then
12 I'm going to instruct you not to answer.

13 THE WITNESS: Okay.

14 MR. THOMAS: So let's exclude any
15 conversations with lawyers.

16 Q. I'm not trying to get at conversations
17 that you had with counsel. I guess let's start
18 with a yes or no. Do you recall specifically
19 which other reports you reviewed?

20 A. I think there were some follow-up
21 questions in terms of --

22 MR. THOMAS: Don't get into the
23 substance of -- just answer his question,
24 which is, if you recall, if you can recall a
25 name of another report that you read, you

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2 can answer that question.

3 A. I mean, I can't recall the reports
4 that I read, the name of the reports I could
5 identify that specifically.

6 Q. We just ask one other follow-up. And
7 again, this is a yes or no question and I'm not
8 trying to get at the substance of any
9 conversations you had with counsel.

10 Do you know whether the reports that
11 you reviewed were prepared by experts for the
12 movants in this case, or were these reports
13 prepared by experts for Barclays?

14 A. I think there -- the testimony of the
15 movants, of the expert witness.

16 Q. Of the movants, correct?

17 A. Yes.

18 MR. DAKIS: Nothing further. Thank
19 you.

20 MS. CARRERO: Thank you.

21 MR. THOMAS: I've got a few questions.

22 EXAMINATION BY

23 MR. THOMAS:

24 Q. Mr. Landreman, you were asked about
25 Barclays' use of internal sales prices in

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2 certain circumstances. Does Barclays take any
3 steps to ensure the reasonableness of internal
4 sales pricing?

5 A. A bond that goes through the price
6 testing process would be valued independently of
7 knowing what the sales price was. We would then
8 compare that sales price to see if that price is
9 reasonable based upon our understanding of the
10 bond, and if there's a material difference
11 between the value that we derive and the value
12 that it was traded at, we would go back to the
13 trader and require that they document their
14 assumptions as to how they rationalized that
15 price.

16 Q. So are they tested in a similar manner
17 as to other prices?

18 A. Yes, they are.

19 Q. For the Lehman positions that you
20 valued, you were asked something about bulk
21 discounts.

22 Did you reduce any values for the
23 Lehman positions you valued to reflect the large
24 size of a position?

25 A. No, we did not.

1 HIGHLY CONFIDENTIAL - Landreman

2 Q. Mr. Landreman, you understand that
3 your testimony today is part of a court
4 proceeding and may be considered by the Court;
5 is that correct?

6 A. Correct.

7 Q. Were you asked to value a portion of
8 the assets Barclays received from Lehman
9 pursuant to the CL transaction between Lehman
10 and Barclays in September 2008?

11 A. Yes.

12 Q. Would you describe the group of assets
13 that you were asked to value?

14 A. I was asked to value the agency
15 mortgage-backed securities, the agency CMOs, the
16 non-Agency RMBS collateral, which would include
17 Alt As, sub-prime, in addition to credit cards,
18 student loans, auto loans, and other securitized
19 products, including some CDOs and CLOs.

20 Q. What was the goal of your valuation
21 effort?

22 A. To provide a fair value for the
23 portfolio.

24 Q. And was the direction given to you
25 from Barclays to state a fair value for those

1 HIGHLY CONFIDENTIAL - Landreman
2 assets?
3 A. Yes.
4 Q. And was that the direction that you
5 gave to members of your team that worked on the
6 valuation?
7 A. Yes, it was.
8 Q. Did you at all times during your work
9 attempt to fairly and reasonably value the
10 assets?
11 A. Yes, we did.
12 Q. At any time did anyone ever suggest to
13 you that you should do anything other than
14 attempt to calculate an appropriate fair value
15 of the assets?
16 A. No.
17 Q. Did anyone ever say to you, in form or
18 substance, that a result other than the fair
19 value of the assets was desired or should be
20 achieved?
21 A. No.
22 Q. Did anyone ever indicate to you or, to
23 your knowledge, anyone else working on the
24 valuation of the Lehman assets that you should
25 attempt to understate the fair value of the

1 HIGHLY CONFIDENTIAL - Landreman
2 Deloitte's clients' RMBS assets for audit
3 purposes.
4 I was part of the implementation team
5 that was tasked with implementing a valuation
6 control process at Freddie Mac seven years ago
7 as part of their accounting and audit
8 restatement. That task included over a trillion
9 dollars of assets.
10 I've been with Barclays for over six
11 years now. I have built this department from
12 scratch. We've been audited and reviewed by
13 every regulator in the country and in the UK.
14 We are regularly audited by PwC. We are
15 active -- you know, we are constantly having
16 dialogue with our peers in the industry, our
17 competitors.
18 We have full transparency to the
19 trading desks within our firm. We see what's
20 happening on a daily basis, and we believe that
21 our processes and procedures that we have
22 implemented are industry best practices and are
23 consistent with what our view is is that
24 provides fair value that allow the investors of
25 Barclays Capital to have comfort that the

1 HIGHLY CONFIDENTIAL - Landreman
2 assets in any way or to value them lower than
3 you otherwise would?
4 A. No.
5 Q. Would you please describe your
6 professional background and experience with
7 respect to valuing such assets?
8 A. I've been valuing securities in a
9 professional form since approximately 1996. I
10 started with the Federal Home Loan Bank of New
11 York. I was a secondary marketing analyst for
12 the securities that were pledged to the Federal
13 Home Loan Bank of New York for their
14 advancements program to their member banks.
15 I worked for consulting firms,
16 including the Mortgage Industry Advisory
17 Corporation, doing mortgage servicing valuation,
18 home loan mortgage valuation, risk analytics and
19 hedging analytics for mortgage originators,
20 mortgage servicers.
21 I have also worked in a National
22 Securities Pricing Center for Deloitte & Touche.
23 I have managed the RMBS price testing functions
24 within Deloitte's National Securities Pricing
25 Center reviewing all, several -- all of

1 HIGHLY CONFIDENTIAL - Landreman
2 balance sheet assets that are being reported for
3 financial disclosure purposes are reasonable and
4 accurate.
5 Q. Do you believe the valuation you
6 ultimately reached for the Lehman assets that
7 you valued reflects their fair value as of
8 September 22, 2008?
9 A. Yes, we do.
10 Q. Did you attempt to value the Lehman
11 assets in a manner consistent with Barclays'
12 practices and policies?
13 A. Yes.
14 Q. Did you interact with PwC during the
15 review of their valuation you performed?
16 A. Yes.
17 Q. Would you please describe that
18 interaction and their efforts with respect to
19 the valuation?
20 A. PwC was already very familiar with our
21 policies and our procedures and how we price
22 tested bonds. They came in and did a full
23 detailed review of the opening balance sheet and
24 the assets on the balance sheet.
25 They did a full review of the

1 HIGHLY CONFIDENTIAL - Landreman

2 processes and the controls around how we
3 implement our policies or our price testing
4 processes. They asked very detailed questions.
5 They went through this entire analysis with
6 very -- with high levels of scrutiny.

7 They sent out a large team to review
8 different asset categories. They brought in
9 subject matter experts who were very
10 knowledgeable in the asset classes that were
11 presented to us, and they followed up and
12 produced high levels of documentation and
13 questioned everything that we did.

14 Q. Did this work by PwC in reviewing
15 Barclays' valuation of these assets continue for
16 a period of months?

17 A. For the opening balance sheet, they
18 produced their report on the date that was
19 presented for the opening balance sheet for the
20 financial release, and whatever date that was is
21 when they completed their analysis.

22 Q. And had their work with respect to the
23 valuation of these assets been ongoing for
24 months prior?

25 A. I guess they have been in my

1 HIGHLY CONFIDENTIAL - Landreman

2 department reviewing my policies and procedures
3 every -- every quarter, and they're very
4 familiar with our practices and what we do. So,
5 in terms of the extra work that was performed
6 here, it was definitely a deep dive into this
7 portfolio.

8 Q. And is it your understanding that at
9 the end of all this work by PwC, that they
10 accepted Barclays' valuation of these assets?

11 A. Correct.

12 MR. THOMAS: Thank you. I have
13 nothing further.

14 MS. CARRERO: A couple of follow-up
15 questions. I'll be brief.

16 FURTHER EXAMINATION BY

17 MS. CARRERO:

18 Q. I believe in response to one of Mr.
19 Thomas' questions you stated that there was no
20 reduction of values to reflect large sizes of
21 positions; is that correct?

22 A. We did not take a block size discount
23 on large positions.

24 Q. Would that include any liquidity
25 discounts that were taken by asset class --

1 HIGHLY CONFIDENTIAL - Landreman

2 strike that. Would any liquidity discounts
3 taken by asset class reflect the size of any
4 individual position or size of that asset class
5 relative to the rest being acquired?

6 MR. THOMAS: Objection to form.

7 A. The calculation of the liquidity
8 adjustment was ambiguous to size. It was really
9 a function of the pricing dispersion and it was
10 applied across asset categories. It was not
11 applied across position size.

12 Q. And you stated that you attempted to
13 fair value as of September 22, 2008; is that
14 correct?

15 MR. THOMAS: Objection to form.

16 A. We provided fair values as of
17 September 2008, September 22, 2008.

18 Q. And that would be at what point in
19 time on September 22, 2008?

20 MR. THOMAS: Objection to form.

21 A. For the assets that we provided, that
22 would have been an end-of-day price.

23 Q. And an end-of-day price would capture
24 any movement in the market throughout the day
25 September 22, 2008, correct?

1 HIGHLY CONFIDENTIAL - Landreman

2 A. For the majority of the assets that I
3 value, there would not have been tremendous
4 movement on a day-to-day basis of the primary
5 assumptions that would be used to value those
6 securities because they are not highly
7 interest-rate sensitive. They would be highly
8 credit-sensitive and the credit data is released
9 on a monthly basis.

10 Q. And would it follow, then, that you
11 would not expect a lot of movement from
12 September 19 close to September 22 close for the
13 assets which your group covers; is that correct?

14 MR. THOMAS: Objection to form.

15 A. That would be, depending upon how the
16 interest rates moved month over month -- or, day
17 over day, that would have been the primary
18 movement of those values.

19 Q. Just so I make sure that it's clear,
20 you mean primary movement would have been
21 month-to-month, correct?

22 A. The primary movement between Friday to
23 Monday would have been a reflection of changes
24 in interest rates or the yield curve.

25 Q. So did your group undertake to measure

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CERTIFICATE

STATE OF NEW YORK)

: SS

COUNTY OF NEW YORK)

I, Kathy S. Klepfer, a Registered
Merit Reporter and Notary Public within and
for the State of New York, do hereby

certify:

That **RICHARD LANDREMAN**, the witness
whose deposition is herein before set forth,
was duly sworn by me and that such
deposition is a true record of the testimony
given by such witness.

I further certify that I am not

related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that neither the deponent nor a party requested a review of the transcript pursuant to Federal Rule of Civil Procedure 30(e) before the deposition was completed.

In witness whereof, I have hereunto
set my hand this 16th day of June, 2010.

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EXHIBITS:	PAGE
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Exhibit 808B, a document bearing Bates Nos. 85

BCI-EX-(S)201329 through 201331

Exhibit 809B, a document bearing Bates Nos. 91

BCI-EX-(S)201104

Exhibit 810B, a document bearing Bates Nos. 98

BCI-EX-(S)52667 through 52668, with attachment

Exhibit 811B, a document bearing Bates Nos. 119

BCI-EX-(S)207849 through 7850, with attachment

Exhibit 812B, a document bearing Bates Nos. 123

BCI-EX-(S) 207979 through 7980, with attachment

Exhibit 813B, a document bearing Bates Nos. 130

PwC-BarCap11225 through 11310

Exhibit 814B, a document bearing Bates Nos. 153

PwC-BarCapWP_23318 through 23351

Exhibit 815B, a document bearing Bates Nos. 159

PwC-BarCap 45782 through 45787

Exhibit 816B, a document bearing Bates Nos. 176

PwC-BarCap 48233 through 48236

TSG Reporting 877-702-9580

HIGHLY CONFIDENTIAL - G. LaROCCA
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

In Re:

Chapter 11

LEHMAN BROTHERS Case No. 08-13555(JMP)
HOLDINGS, INC., et al., (Jointly Administered)

Debtors.

-----x

* * *HIGHLY CONFIDENTIAL* * *

DEPOSITION OF GERARD LaROCCA

New York, New York

August 19, 2009

Reported by:

KATHY S. KLEPFER, RMR, RPR, CRR, CLR

JOB NO. 24292

1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 finance.

3 **Q. And do you hold any licenses,**
4 **professional licenses of any kind?**

5 A. Series 7 and Series 24.

6 **Q. CPA?**

7 A. No.

8 **Q. Did you ever practice as a public**
9 **accountant?**

10 A. No.

11 **Q. Do you keep your licenses current?**

12 A. Yes.

13 **Q. And give me an idea, if you would, of**
14 **your employment background. I know you're**
15 **currently employed by Barclays, but if you**
16 **could -- how long have you been with Barclays?**

17 A. I've been with Barclays since November
18 of '98. Prior to joining Barclays, I spent 16
19 years at Salomon Brothers from -- or, 15-plus
20 years at Salomon Brothers from '83 to '98.

21 The early part of my career from '83
22 to '91 was primarily in the Controller's Group
23 in the Financial Division at Salomon, and after
24 the Treasury auction scandal in August of '91, I
25 moved out of the controller's world and into
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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 Operations and eventually was running Sali's
3 U.S. operations.

4 In '96 I went over to run Salomon's
5 European operations and get the firm ready for
6 the introduction of the euro.

7 '9 -- back end of '97, Salomon got
8 taken over. I hung around for a year and then
9 joined Barclays in November of '98. So I've
10 been out of school since '79, been on Wall
11 Street since '79, and primarily on the back, on
12 the infrastructure side, so all in the back
13 office.

14 **Q. You also serve or have served as a**
15 **director of the Depository Trust Corporation?**

16 A. I am currently on the board of the
17 Depository Trust Company.

18 **Q. How long have you been a DTC board**
19 **member?**

20 A. I believe this is year three.
21 Certainly more than two. I'm not sure if it's
22 three or four years now.

23 **Q. Is that a paid position?**

24 A. No, it's not. DTC is a
25 not-for-profit, industry-owned utility.

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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 **Q. And if you would, please, Mr. LaRocca,**
3 **give me a resumé of the positions that you have**
4 **held at Barclays since you joined in 1998**
5 **through today?**

6 A. 1998, I was hired as the Global Head
7 of Operations and had that position from '98 to
8 2002, 2003. I'm not exactly sure when that
9 transferred to my responsibilities.

10 In, I believe in 2000, in addition to
11 my operational responsibilities, I was the Chief
12 Financial Officer for Barclays Capital for
13 roughly a couple years, 2000 and 2001. The CFO
14 had resigned and they had asked me to step into
15 that role. And those jobs were based in London.

16 In February of 2002, I relocated back
17 to the United States. At that point in time, I
18 relinquished my chief financial officer role and
19 retained the operations responsibilities
20 probably for another six to twelve months,
21 Global Head of Ops.

22 In addition to running Ops. globally
23 from New York for that period of time, I assumed
24 the role of Chief Administrative Officer for
25 Barclays Capital.

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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 **Q. That's in about '02?**

3 A. Yes, when I relocated.

4 The chief administrative officer --
5 the way our organization is structured is people
6 have a regional boss and a functional boss, so I
7 had regional oversight of most of the
8 infrastructure groups and the primary oversight
9 initially for Operations, because I was also the
10 functional head, and I have retained those
11 positions -- I'm still the chief administrative
12 officer. I no longer have primary oversight of
13 Operations, although, like I said, all the
14 infrastructure groups report in to me from a
15 regional perspective.

16 Those are kind of what I call my
17 business responsibilities as a result, I am also
18 an officer of many legal entities.

19 **Q. Within the BarCap?**

20 A. Within BarCap family of companies. So
21 I'm the CEO of its U.S. broker-dealer. I am the
22 branch manager for Barclays Bank, PLC, the New
23 York branch. I sit on the board of its Mexican
24 affiliate and am an officer on several of its
25 companies.

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Q. And, at least from time to time, have</p> <p>3 to testify?</p> <p>4 A. Yeah, this is a first.</p> <p>5 Q. Now, at the moment, to whom do you</p> <p>6 report? Who is your --</p> <p>7 A. Rich Ricci.</p> <p>8 Q. You're Rich Ricci's direct report?</p> <p>9 A. Correct. And have been for some time.</p> <p>10 Q. For our purposes, you were reporting</p> <p>11 directly to Rich Ricci back in September of</p> <p>12 2008?</p> <p>13 A. Correct. Yes.</p> <p>14 Q. And how many direct reports do you</p> <p>15 have? That might be a hard question given these</p> <p>16 two different regional and functional</p> <p>17 responsibilities.</p> <p>18 A. Excluding administrative, secretarial</p> <p>19 support, I believe it's four direct reports, and</p> <p>20 that is -- there's a woman Theresa Fox, who is</p> <p>21 the branch manager of our Miami office; there's</p> <p>22 a woman Cristiano Pedote, who runs our Brazil</p> <p>23 office; there's gentleman Mike Montgomery, who</p> <p>24 is a BarCap employee who looks after our Homeq</p> <p>25 and Equifirst.</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 You know, they have very little to do</p> <p>3 with the investment banking activities in New</p> <p>4 York, you know.</p> <p>5 Q. Uh-huh.</p> <p>6 A. And again, you know, I'm a senior guy</p> <p>7 and I have regional oversight of all the</p> <p>8 infrastructure groups, but, you know, I</p> <p>9 wouldn't, while they report to me locally, you</p> <p>10 know, I don't do their appraisals, I don't do</p> <p>11 their comp.</p> <p>12 Q. What's sometimes called the dotted</p> <p>13 line?</p> <p>14 A. Dotted line, correct. Although I put</p> <p>15 input into all of that.</p> <p>16 Q. Sure.</p> <p>17 A. There's one thing I failed to mention</p> <p>18 in terms of talking about my background and my</p> <p>19 role and responsibilities. About a year ago I</p> <p>20 was put on the board of Barclay Card Delaware.</p> <p>21 So Barclay Card has a big UK card business and a</p> <p>22 smaller U.S.-based business, and I've been put</p> <p>23 on the board of Barclays Card Delaware.</p> <p>24 Q. And let me focus you back to September</p> <p>25 of 2008. You were reporting to Mr. Ricci at</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 that point. Who were your direct reports in</p> <p>3 September of 2008? Was it any different from</p> <p>4 what you have just described?</p> <p>5 A. No.</p> <p>6 Q. Now, you are familiar, obviously, with</p> <p>7 the topic that brought us here today, the Asset</p> <p>8 Purchase Agreement between Lehman and Barclays?</p> <p>9 A. Well, I know why you're here, and my</p> <p>10 familiarity with the Asset Purchase Agreement,</p> <p>11 you know, I guess we're going to talk about it,</p> <p>12 because I wasn't part of the deal team, but</p> <p>13 obviously privy to a lot of information at that</p> <p>14 time and involved in elements of kind of what</p> <p>15 went on at that point in time.</p> <p>16 Q. Okay. We'll explore that during the</p> <p>17 day.</p> <p>18 A. I'm sure.</p> <p>19 Q. If you would, if you could frame it</p> <p>20 out for me, give me a general description of</p> <p>21 what your activities or involvement were with</p> <p>22 respect to the negotiation and conclusion of the</p> <p>23 deal in that period in call it, you know,</p> <p>24 September 12 through the closing on the 22nd.</p> <p>25 You can keep that calendar with you</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 all day.</p> <p>3 A. My first involvement or the first time</p> <p>4 I became aware of this transaction or a possible</p> <p>5 acquisition of Lehman Brothers would have been</p> <p>6 on late afternoon of September 11. I would have</p> <p>7 gotten a call from Rich Ricci, who indicated</p> <p>8 that Barclays was thinking about acquiring</p> <p>9 Lehman Brothers and that he was on his way to</p> <p>10 New York with Bob.</p> <p>11 He had given me a phone number of a</p> <p>12 gentleman named Mark Fisher at Lehman Brothers.</p> <p>13 MR. STERN: Shafir?</p> <p>14 THE WITNESS: Mark Shafir. I'm sorry.</p> <p>15 Mark Shafir.</p> <p>16 And said, call him up, find out what</p> <p>17 you can and, you know, he was going to</p> <p>18 arrive in New York at 3 A.M. and wanted to</p> <p>19 meet at 3 A.M.</p> <p>20 Q. The "he" you're referring to is Bob is</p> <p>21 going to arrive at 3 or Shafir?</p> <p>22 A. My conversation was with Rich. I</p> <p>23 was -- but Rich left me the impression -- I was</p> <p>24 left with the impression that Bob was with him.</p> <p>25 Q. And the Bob you're referring to is Bob</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>

1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 what he needed.

3 **Q. You don't know one way or the other?**

4 A. Don't know one way or the other. The
5 only data that I saw was the real estate data,
6 okay? Because I was involved with our real
7 estate people in terms of looking at the real
8 estate that they owned, where did Lehman have
9 offices, et cetera.

10 **Q. Se, again, to use the HR example, if
11 someone on the HR team had developed a view or
12 some knowledge about --**

13 A. I wouldn't know.

14 **Q. -- global bonus accruals, that's not
15 something you would know?**

16 A. I wouldn't know. Absolutely wouldn't
17 know.

18 **Q. All right. So you haven't slept for a
19 couple of days. It's Sunday. That phase has
20 ended. What happens next?**

21 A. What I don't recall, what I don't
22 remember is whether if I got calls Sunday night
23 or Monday morning, you know. I mean, it was
24 all -- when I tell you I, you know, if I got 90
25 minutes' sleep that week, it was...

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2 So I got a call either late Sunday
3 night or early A.M. on Monday morning and --

4 **Q. Just so we can have a clear record,
5 when you say Sunday night, you're on Sunday
6 night, the 14th?**

7 A. The 14th or the 15th.

8 **Q. Okay.**

9 A. And that possible that we may buy --
10 I'm trying to -- how I found out. Someone would
11 have called me. I don't recall who it was
12 called, said come back, you know, and was told
13 we may be buying the U.S. broker-dealer, that
14 the LBI hadn't declared bankruptcy.

15 And when I initially found out, I'm
16 thinking we're buying the U.S. broker-dealer. I
17 don't know anything about an Asset Purchase
18 Agreement and, you know, I'm thinking we're
19 buying a U.S. broker-dealer.

20 Now, my role is kind of changed a
21 little bit now. Now I'm no longer in a kind of
22 due diligence coordination role. I get sent
23 over to Lehman Brothers and to sit with the ops.
24 guys and told try to be helpful to them, they're
25 dying, they're in -- they're in bad shape

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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 because, you know, JPMorgan had turned off the
3 pipes, banks were pulling lines, counterparties
4 were closing them out, walking away from trades.

5 And so I was told, you know, to go over to
6 Lehman Brothers and try to be helpful because
7 I'm an experienced ops. guy and would have --

8 You know, so that kind of consumed my
9 Monday, well, that kind of -- I was heavily
10 involved in that the whole week, and then on --
11 that would have been a big part of my Monday.
12 And Monday or late afternoon, I became aware
13 that from -- and I would have become aware from
14 Jonathan Hughes, who told me that the Fed had
15 reached out to him and had asked him to -- and
16 that -- so on Monday late afternoon, I believe,
17 I believe it was Monday, Jonathan had alerted me
18 that the Fed was financing Lehman Brothers and
19 they were looking for Barclays to help in some
20 kind of way.

21 At that point in time, it really
22 didn't resonate with me because, you know, I was
23 fighting a lot of fires and, you know, trying to
24 settle trades and leverage my relationships on
25 Wall Street to try to get, you know, banks to

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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 assist and cooperate, et cetera.

3 On the 16th, the Tuesday, Jonathan
4 came back to me again and said, you know, the
5 Fed wants to meet with us, they want us to -- I
6 don't remember the exact words -- they want us
7 to step into their trade with Lehman Brothers.
8 It might not have been the words he used, but
9 the tone of what he was very different than the
10 conversation I had with him on Monday. I
11 remember it being very different because it got
12 my attention on the Tuesday a lot more than it
13 got on the Monday.

14 **Q. Can you give me a little more detail
15 on that? How had his tone changed? It was more
16 urgent? It was angry? It's loud?**

17 A. It was more urgent.

18 **Q. Okay.**

19 A. And said we needed to get on the phone
20 with the Fed, okay? And Jonathan used words
21 like if the Fed is going to support this, you
22 know, if we want the Fed to work with us and to
23 support this transaction that we want to try to
24 do, that we're going to have to step into
25 that -- we're going to have to take the Fed out

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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 of my -- of their financing obligation with
3 Lehman Brothers.

4 I participated in a phone call with
5 the Fed on that Tuesday, and -- and you're going
6 to ask me who it was with, and I don't recall,
7 and after my phone call, the urgency was evident
8 to me and I dropped what I was doing and headed
9 down to the Fed and I met with -- now, I'm not
10 sure if I -- I don't know if I went down on the
11 Tuesday night. I think so, I'm almost, I'm
12 almost positive it was Tuesday night early
13 evening and met with Lucinda Brickler and other
14 colleagues of hers from the Fed.

15 And Lucinda had explained to me that
16 the Fed was financing Lehman Brothers, had
17 provided roughly \$45 billion in financing for
18 Lehman Brothers, and that they were using --
19 that Lehman was using three facilities to
20 finance collateral and the Fed had lent them \$45
21 billion.

22 **Q. Do you know what the three facilities**
23 **were?**

24 A. If you say them, I'll -- one was Open
25 Market Operations, one is --

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1 HIGHLY CONFIDENTIAL - G. LaROCCA
2 period, would be able to put that collateral out
3 on the street.

4 So worked with Lucinda that night, and
5 the Fed replacement transaction was kind of
6 developed. Told her that she was looking --
7 they were anxious, right? Were hoping that we
8 could execute on Wednesday. We told them that
9 we wouldn't be prepared. We didn't have any
10 idea, you know, while we drew this up on the
11 blackboard, you know, I needed to go back and
12 figure out how it was going to work.

13 **Q. Right.**

14 A. And there was just so much uncertainty
15 about data, you know, didn't know the collateral
16 that the Fed was holding and, you know, needed
17 to talk to our ops. people. And, you know, so
18 Wednesday would have been a day of preparation
19 in anticipation of beginning doing this
20 transaction on that Thursday.

21 **Q. So this Wednesday, the 17th --**
22 **I'm putting the days in so we have a**
23 **record by number as well.**

24 A. Yeah. Yeah.

25 **Q. So you leave the Fed, you told them**

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2 **Q. OMO?**

3 A. OMO. There was --

4 **Q. TLSF, yes?**

5 A. Treasury -- TLSF sounds right. And
6 what's the third one?

7 **Q. PDCF?**

8 A. PDCF. Those would be the three,
9 right?

10 And they had explained that Lehman had
11 put collateral into those three facilities and
12 the Fed had advanced them \$45 billion, right?
13 And they wanted -- they didn't have -- the Fed
14 did not have a problem that if Barclays stepped
15 into that trade, that we could use the
16 facilities because it would take us -- they knew
17 it would take us time to find financing, you
18 know, financing with third parties. It would
19 take some weeks to find financing.

20 So they left me with the impression
21 they didn't have a problem -- they had a problem
22 with Lehman being the counterparty to the Fed
23 and were more comfortable with Barclays being
24 the counterparty to the Fed, and them seeing a
25 way that Barclays had, over a couple of week

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2 **we'll do this, but I can't get it done today?**

3 A. We're going to do it on Thursday,
4 right? And they seemed to be fine with that.
5 They were just, you know, they were expecting a
6 Friday closing and seemed to be okay that
7 Thursday was the day.

8 **Q. Were you expecting a Friday closing at**
9 **that point, too? Was that the timeline people**
10 **were working on?**

11 A. You know what, I was expecting a
12 Friday closing. It became -- and I don't know
13 why, I don't know where, you know, again, it
14 could have been chatter in the -- in our
15 facilities. It became, you know, from my
16 personal experience, it became very evident that
17 if it had to go through another weekend, this is
18 personal experience, they were having a great
19 deal of difficulty, Lehman Brothers, just
20 getting through a day because they were flying
21 blind.

22 They had -- they didn't know the
23 status of their trades. They hadn't reconciled
24 the bank accounts. They hadn't reconciled their
25 stock record in several, several days in advance

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2 of when -- even before I got in there. I mean,
3 when was the last time you reconciled your stock
4 record, I would ask, and they would say they
5 hadn't reconciled in weeks because JPMorgan was,
6 you know, shutting the -- not providing any --
7 not only did they not provide any intraday
8 liquidity, they denied them access to the
9 system.
10 So the quality of data was -- was
11 horrible.
12 **Q. Okay.**
13 A. Absolutely horrible.
14 **Q. I interrupted you. Let me put you**
15 **back where we were, I think, in the timeline.**
16 **You had this conversation with Lucinda. You**
17 **told her what you can get done and what you**
18 **can't get done on the Wednesday?**
19 A. We were going to try to do it on
20 Thursday.
21 **Q. Do you leave the Fed?**
22 A. Leave the Fed.
23 **Q. What happens then?**
24 A. Go back to the office, mobilize the
25 team, you know, tell them that we're going to
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2 completed, but we were moving securities into --
3 the transaction would have started sometime in
4 early afternoon, late morning on Thursday and it
5 didn't get -- we stopped moving securities at
6 Friday, would have been after 12 o'clock, that
7 the Fed had -- DTC had closed the securities
8 wire.
9 **Q. Let me clarify that a little bit**
10 **because I'm not sure I understand the timing.**
11 **You're into Friday. When you say 12 o'clock,**
12 **are you at noon?**
13 A. So noon on Thursday, right? On or
14 around noon on Thursday. Could have been a
15 little before, a little after we moved cash over
16 to JPMorgan and securities started trickling
17 across, right?
18 **Q. The cash is how much? 45 billion?**
19 A. Originally, the -- we moved 5 billion
20 initially, and the securities did not move
21 across quickly, and as a matter of fact, we
22 actually didn't get \$5 billion worth of
23 securities for the first \$5 billion worth of
24 cash that moved across.
25 At that point in time, I alerted the
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2 try to --
3 **Q. People must be really sick of seeing**
4 **you show up now. You're mobilizing teams...**
5 A. Mobilizing teams, right? And it's
6 very -- you know, in theory, it's a very simple
7 transaction, right? So the Fed is going to
8 release collateral to Lehman Brothers, right?
9 **Q. Uh-huh.**
10 A. Barclays is going to wire \$45 billion
11 in money to Lehman, and Lehman is supposed to
12 deliver to us the collateral that it had held at
13 the Fed, right? That was supposed to be -- that
14 was the transaction which was agreed.
15 **Q. Okay.**
16 A. Okay?
17 **Q. What next?**
18 A. The Thursday we begin to move money
19 and assets start coming across. We have all
20 kinds of operational difficulties. We had
21 difficulties getting started, difficulties
22 coordinating with JPMorgan, and as you
23 undoubtedly know, that the transaction that
24 started in the middle of the afternoon didn't
25 get completed until -- well, never really got
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2 Fed, and I would have called, I'm not sure if it
3 was Lucinda Brickler or Stephanie Heller, that
4 we had agreed a transaction, we were having a
5 great deal of difficulty because JPMorgan was
6 not cooperating, and they had gone onto the --
7 they had gotten -- I was told that they were
8 going to reach out to JPMorgan. I can't tell
9 you what they said.
10 They came back to me, the Fed, and
11 said that JPMorgan wanted to hold the excess
12 collateral in margin for the transactions to
13 satisfy, you know, their potential exposure to
14 Lehman Brothers, and I said that's a
15 non-starter, that's not the transaction that we
16 had agreed on the Wednesday.
17 We had agreed a transaction with the
18 Fed to take the Fed out of the transaction, not
19 for Barclays to satisfy or, you know, JPMorgan's
20 exposures to Lehman Brothers. That was a lively
21 discussion with me and the Fed, and at that
22 point in time, I had escalated to Rich Ricci
23 that JPMorgan was -- I don't know the words I
24 would have used. I don't know that --
25 **Q. Something colorful?**
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A. Something colorful, right? They didn't play nice in the sandbox, okay?

And, you know, and several -- now hours have passed, right? And, you know, we haven't done -- we haven't moved much cash and much securities.

Q. Right.

A. I'm not sure of the -- what discussion took place with the Fed, but the Fed came back and said JPMorgan indicated that they were going to cooperate.

Q. Okay. When you say you're not sure what discussion, the discussion between the Fed and JPMorgan?

A. Fed and JPMorgan. I'm not privy to that conversation, right? So, but the Fed came back to me and had indicated that JPMorgan was going to cooperate, right?

Q. Okay. So what happened next?

A. And because of the now the Fed wire and DTC, I mean, now we're past the deadline, right? And there was -- and we're wondering how we're going about to get this transaction done.

Q. This transaction being the --

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A. The Fed replacement transaction given the we've already asked for extensions and the 5 billion took hours and it was trickling in and the systems weren't working, right?

Q. Who do you have to ask for extensions?

A. The Fed, normally, in a normal course of business, okay, the dealer community would ask one of its two clearing banks, it would be Bank of New York or JPMorgan, right, to keep the securities wire open or the money wire open.

And it's done through a clearing bank, so the dealers don't talk to the Fed, right? On occasion, 30 years of experience, when the security wire or money wire is kept open for prolonged periods of time, sometimes the Fed will want to talk to the dealer or the participant who's causing the extension.

Q. Okay.

A. In this instance, the Fed was party to the transaction. They were, you know --

Q. They're in it?

A. So I don't know that we asked. They were going to keep it open to, you know, to help us.

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Q. Got it.

A. Right? And they -- but still concerned about how this, you know, how this was going to happen and get done on time. We talked about internally at Barclays -- who? Me, Rich Ricci -- about, you know, moving \$40 billion in one go. And, you know, it's a lot of money and that decision carried kind of great personal risk for me and also tremendous risk for Barclays, and while I was given assurances that from the Fed that JPMorgan was going to play ball or cooperate, my experience that week with them grabbing collateral, them turning the pipes off at Lehman Brothers, caused me great concern and was very concerned that we would be exposed that kind of money.

Rich kicked the decision up. I don't know exactly the conversation that he had with Bob, but what came back to me was that Bob had gotten assurances from Bill, I think it's Bill Winters from JPMorgan, that all the collateral would move across.

So we moved 40 billion in one go, I don't recall the time, late afternoon or early

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evening of Friday, and securities started to come across in glacier-like speed, just -- and I'm not sure why the systems were creaking. I'm not sure. Just it took -- you know, there was no rule book for what was happening. These aren't, you know, this is not, you know, this transaction is not getting processed like a normal transaction, you know, and securities moved till well after midnight.

And Barclays is expecting, you know, something greater than \$45 billion worth of securities or, you know, and the number we were expecting were in the neighborhood of 49 to 50 billion dollars worth of securities, assuming there were normal haircuts assign to the collateral.

MR. STERN: When you said "well after midnight," are you sure of your recollection on that?

THE WITNESS: It was after midnight. On or around midnight. "Well after" maybe is not the right, Jack --

MR. STERN: I'm sorry, I just wanted to be accurate.

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Q. It's a good point, because let's --</p> <p>3 A. It was --</p> <p>4 Q. And just so I can further clarify</p> <p>5 this, after midnight on the midnight from</p> <p>6 Thursday over to Friday?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Okay. So at some point very,</p> <p>9 very late on Thursday or early Friday?</p> <p>10 A. Right, the Fed and DTC closed the</p> <p>11 securities wire.</p> <p>12 Q. Okay.</p> <p>13 A. Because they needed to be open for</p> <p>14 business the next day. And we found ourselves</p> <p>15 short, didn't really know how short we were</p> <p>16 because, you know, we didn't really have a lot</p> <p>17 of time to -- we had no time to look at</p> <p>18 collateral, valuations. No time, right? And</p> <p>19 were relying on information that values that</p> <p>20 were being assigned by the systems, okay, that</p> <p>21 suggested that we had approximately \$42 billion</p> <p>22 worth of securities couldn't be absolutely sure,</p> <p>23 you know, because we didn't -- didn't know what</p> <p>24 we were -- what was coming across.</p> <p>25 When it became evident that we were</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 short, our ops. guy got on the phone with a</p> <p>3 JPMorgan guy.</p> <p>4 Q. Who is your ops. guy?</p> <p>5 A. John Rodefeld.</p> <p>6 And I would have instructed him to get</p> <p>7 some cash back, and JPMorgan at that point in</p> <p>8 time wired \$7 billion in cash. So I left Friday</p> <p>9 morning in the wee hours, you know, sometime</p> <p>10 between 1 and 3, thinking that, you know, we got</p> <p>11 roughly 49 to 50 billion in collateral, you</p> <p>12 know, and thinking that we're going to have to</p> <p>13 finish this transaction at a later date.</p> <p>14 Q. Okay. You're thinking you got 42 plus</p> <p>15 7. What happens next?</p> <p>16 Actually, can I withdraw that? I want</p> <p>17 to go back to something you just said. You said</p> <p>18 you looked at the collateral valuation, et</p> <p>19 cetera, and you were relying on values assigned</p> <p>20 by the system. Could you tell me what you meant</p> <p>21 by that?</p> <p>22 A. No. You're probably better placed</p> <p>23 talking to an Ops. guy, right? Because somehow,</p> <p>24 right, so I'm not -- I'm in 745 or 200 Park.</p> <p>25 I'm in Manhattan. Our ops. guys are in New</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Jersey and somehow they were able to keep a</p> <p>3 running total --</p> <p>4 Q. Of what's coming across?</p> <p>5 A. -- of what's come across, right? And</p> <p>6 I don't know how they did that, so I don't</p> <p>7 know --</p> <p>8 Q. Let me just press that a little bit,</p> <p>9 see if -- did anybody talk to you about the</p> <p>10 values that were -- did the values you're being</p> <p>11 informed about come from the Bank of New York</p> <p>12 valuation, because they're like holding the</p> <p>13 collateral?</p> <p>14 A. I don't really know the specifics. I</p> <p>15 would be speculating. I really --</p> <p>16 Q. I don't want you to do that.</p> <p>17 A. I really don't know. Based upon my</p> <p>18 experience, right, you know, I would think that</p> <p>19 the Bank of New York would have no difficulty</p> <p>20 assigning values to wirable securities.</p> <p>21 Q. Hold them, right?</p> <p>22 A. Treasuries and mortgage-backed,</p> <p>23 Ginnie, Fannie, Freddie, highly liquid markets</p> <p>24 because that's what they do. They're a</p> <p>25 tri-party bank and they value the securities. I</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 would imagine that they would have a great deal</p> <p>3 of difficulty pricing non-wirable securities.</p> <p>4 They would have no difficulty with wirable and</p> <p>5 equities, listed stocks, and it would all be all</p> <p>6 the non-investment grade, illiquid products that</p> <p>7 they would have a great deal of --</p> <p>8 Q. Like give me some examples.</p> <p>9 MR. STERN: Let him finish. You were</p> <p>10 saying illiquid products would have a great</p> <p>11 deal of?</p> <p>12 A. Difficulty pricing. Actually, not</p> <p>13 only would they have difficulty pricing, right,</p> <p>14 but the market is in major meltdown mode, right?</p> <p>15 So I know from our own books, right, you know,</p> <p>16 there's no markets, prices are moving like -- we</p> <p>17 didn't know what it was we were going to get.</p> <p>18 We were hoping we were going to get something</p> <p>19 more -- we would end up in a position that we</p> <p>20 had something more than 45 billion in cash that</p> <p>21 went across, but we couldn't be absolutely</p> <p>22 certain.</p> <p>23 We had, you know, thousands and</p> <p>24 thousands and thousands of Cusips. We didn't</p> <p>25 know if we're getting, you know, AAA-rated</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 46</p> <p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 corporates or wallpaper. You know, so it was a</p> <p>3 lot of uncertainty, a lot of risk, and --</p> <p>4 Q. Okay.</p> <p>5 A. -- so there's a running total being</p> <p>6 kept.</p> <p>7 Q. Yeah.</p> <p>8 A. Okay. That running total gets</p> <p>9 communicated to me it's 42 billion, right, but</p> <p>10 these guys aren't, you know, these are ops. guys</p> <p>11 and they're not traders and they're not making</p> <p>12 markets in the securities, right? There are</p> <p>13 no -- you know, so, you know, we wanted 7</p> <p>14 billion in cash.</p> <p>15 They moved 7 billion in cash to our</p> <p>16 account. I left, communicated to the Feds, said</p> <p>17 we didn't do the transaction, all the collateral</p> <p>18 didn't move across, we got what we think is</p> <p>19 roughly 42 billion in collateral and 7 billion</p> <p>20 in cash, and, you know, I'm -- I'm probably not</p> <p>21 going home. I'm probably going to a hotel now.</p> <p>22 Q. You're at least getting some sleep</p> <p>23 now, right?</p> <p>24 A. I don't know if I was getting -- I</p> <p>25 didn't get sleep. I maybe was going for a</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 47</p> <p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 shower, because I -- I had a hotel room, but it</p> <p>3 wasn't to sleep in. It was to shower and to --</p> <p>4 I really didn't sleep. It was, you know...</p> <p>5 Q. So what happens next?</p> <p>6 MR. STERN: Where are we in time?</p> <p>7 Q. We are in the wee hours of Friday</p> <p>8 morning. You've been told by the ops. guys that</p> <p>9 42 billion plus 7 billion in cash has come</p> <p>10 across.</p> <p>11 A. Right. Okay. I'm pausing. I just</p> <p>12 want to remember. The closing is scheduled that</p> <p>13 afternoon, right? On Friday, the 19th, right?</p> <p>14 And I would have explained to Rich and Michael</p> <p>15 Klein kind of what happened, right?</p> <p>16 So they had that information, and it</p> <p>17 becomes -- I'm not sure -- I'm not sure of the</p> <p>18 timing of it, if someone said anything to me or</p> <p>19 if it's a function of being in the room or, you</p> <p>20 know, it's becoming evident to me that the</p> <p>21 securities that came across in the -- from the</p> <p>22 Fed are the securities that are going to be in</p> <p>23 the -- now we're doing an Asset Purchase</p> <p>24 Agreement, we're not buying the broker-dealer,</p> <p>25 and the securities that we're going to purchase</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 48</p> <p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 are going to be the ones that have come across</p> <p>3 from the Fed. So somehow that lightbulb goes</p> <p>4 off on Friday, right? For me.</p> <p>5 I'm trying to recall. That's very,</p> <p>6 very -- I remember going to the closing.</p> <p>7 MR. STERN: You said something about</p> <p>8 telling Rich and Klein.</p> <p>9 A. I told Ricci and Michael Klein that we</p> <p>10 didn't get all our securities, we got cash, we</p> <p>11 somehow have to complete the transaction, you</p> <p>12 know, don't know what it is we got in the way of</p> <p>13 collateral, you know, we need to get traders to</p> <p>14 look in at it. I'm not sure that we got</p> <p>15 collateral that was held by the Fed, I'm not</p> <p>16 sure we got collateral that was held by</p> <p>17 JPMorgan, I'm not sure about anything, right?</p> <p>18 You know, I'm very, very concerned that, you</p> <p>19 know, about what it was we had moved across.</p> <p>20 Q. Okay.</p> <p>21 A. Right? Someone explained to me, and I</p> <p>22 didn't know this at the time, and I'm in a room</p> <p>23 with a bunch of lawyers, that when, under repo</p> <p>24 law, in a bankruptcy, right, the collateral --</p> <p>25 we're not getting -- that's not a transaction</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 49</p> <p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 that, the way we structured it, was a repo,</p> <p>3 right, a reverse repo for Barclays, that, you</p> <p>4 know, that's not going to unwind, that trade,</p> <p>5 you know, the Fed is going to be left with cash</p> <p>6 and we're going to be left with collateral and</p> <p>7 we didn't know what it was we had.</p> <p>8 We didn't know what it was we had, the</p> <p>9 markets were tanking, the world was melting</p> <p>10 down, and there was a great deal of concern</p> <p>11 about what it was we -- what it was we had come</p> <p>12 across, and so I would have alerted Michael that</p> <p>13 we ended up with what we believed to be \$42</p> <p>14 billion, or what the system said, we needed to</p> <p>15 get traders to look at it, and we got \$7 billion</p> <p>16 in cash.</p> <p>17 Q. Michael is Michael Klein?</p> <p>18 A. Michael Klein and Rich Ricci, okay?</p> <p>19 And then I went to the, that</p> <p>20 afternoon, I went to the bankruptcy proceeding,</p> <p>21 you know. I was just fascinated. I hadn't</p> <p>22 seen, you know, about what was transpiring in</p> <p>23 the market, you know, what wasn't, you know,</p> <p>24 sitting in the gallery and then --</p> <p>25 Q. In the main room or up on the other</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>

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Q. Okay. That makes some sense. So now we have the judge right after midnight on Friday into Saturday, the hearing ends, right? And then you're aiming at a before-opening close on Monday?

A. Correct.

Q. I'm doing this just so see if I can refresh your recollection about what's happened in these time segments, okay?

A. Don't remember.

Q. Are you busy with the deal in some fashion or other on Saturday or Sunday?

A. I was there that weekend because I didn't go home.

Q. Okay.

MR. STERN: "There" being Weil Gotshal or Barclays?

THE WITNESS: I'm sorry?

MR. STERN: Where is the "there"?

Q. Where were you?

MR. STERN: Where are you?

A. At Barclays, I think at 200 Park.

Q. I'm going to show you in a couple of minutes, because I bet you thought this was over

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when you told me everything, but -- I'm kidding.

A. You know, I --

Q. This is very helpful.

A. And then, and then Monday morning --

Q. Can I go back to the weekend for a second? I'm going to show you in a couple of minutes a clarification letter that you signed --

A. Okay.

Q. -- that's being -- and maybe you're not the one, but that's being negotiated during that period. Does that refresh your recollection about what topics you were addressing over the weekend?

A. I'm a signator on every legal entity for Barclays. I think I alluded to that in my background, right? So I probably signed, you know, so many documents that weekend, you know.

Q. Are you involved over the weekend on the Friday or the Saturday or the Sunday in any back and forth about what this clarification letter will contain?

A. No.

Q. Okay.

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A. No.

Q. Okay. So tell me what you remember next?

A. Monday turning up at a law office, I don't remember which one, if it was Cleary or Weil Gotshal, I don't know where it was, walking into a room, not unlike this, with about more lawyers than, you know, a lot of lawyers, right?

And there was a discussion all of about ten minutes about the \$7 billion where we talked about agreeing the collateral that would come across for that \$7 billion, right? And there was a -- it was a sheet of paper, to the best of my recollection, put in front of me of kind of collateral that JPMorgan wanted to give us.

We said that was unacceptable because we believed the collateral to be worth -- well, I shouldn't say -- we believed the collateral to be less, worth less than the cash and we were expecting something more than \$7 billion worth of collateral because of the haircuts.

And JPMorgan said, how about you -- I shouldn't say -- the lawyers for JPMorgan said

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how about you just keep the cash, and we said okay because we wanted to facilitate the close. I would have said okay. I actually got criticized for that decision because I should have got \$7 billion worth of the securities plus the margin, something greater, right?

And then the deal team was going to go away and make the amendments to reflect that that Fed, you know, that the transaction had to change or the asset purchase or whatever had to change for now because we weren't going to complete the transaction.

I hung around at the law offices and executed documents and then I went home and got much needed sleep.

Q. Okay. Now --

MR. STERN: I think at some point before 11 we should take a little short break, whenever it's a convenient time.

MR. GAFFEY: Two or three questions and that's a very good breaking point.

Q. Now, I just want to go back to the documents you executed. Do you know what you --

A. I don't remember.

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Q. Did you know at the time, or is it a lot of papers flying around?

A. I presumed it was the deal closing documents, you know, and --

Q. Okay.

MR. GAFFEY: Let's take a break now, okay?

MR. STERN: Yes.

(Recess; Time Noted: 10:44 A.M.)

(Time Noted: 10:53 A.M.)

BY MR. GAFFEY:

Q. Mr. LaRocca, I want to go back to -- I'm going to go back over quite a bit of what you told me, but I would like to go back for a moment to, you said that on the Friday the decision was there should you take the cash, and you said --

A. No, Monday morning.

Q. I beg your pardon, Monday morning. And you said okay and you were criticized for that. Who criticized you for that?

A. A colleague of mine, a gentleman Mike Keegan, indicated to me that, you know, you should have got securities plus the margin so,

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theoretically, we could have gotten some more value.

Q. And what's Keegan's job?

A. He's a trader -- well, he manages a trading unit of -- manages a trading -- manages a trading unit of credit assets, right? So an illiquid trading book.

Q. Tell me, just so I can frame this, tell me what you remember about the conversation with Keegan. What did you say, what did he say, as best you remember?

A. I, what seemed like either that day or the next day, that same day, I said, you know, we got cash, right? Thinking that cash is king and we, you know, and instead of having illiquid assets and given the market volatility. And Mike said, well, we should have got more than 7 billion. We should have got securities worth 7 billion plus the haircut. I don't know that those were his words, you know, but ...

Q. Did he express any concern about the quality of the securities that came over?

A. No.

Q. No? Did anybody express concern about

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the quality of the securities that came over?

A. No one -- no one would have expressed concern to me, but I don't think anyone had time to look, right? You know.

Q. So how is Keegan in this conversation? I'm trying to get a sense of it. This sounds like anything that would range from he's --

A. Mike is -- not certain of Mike's role on the deal, right? My impression of Mike's role on the deal is he would have some responsibility for figuring out what it is we got in the way of collateral, right? So he's ultimately going to be responsible for managing a subset or a piece of assets that have come across. So that would be his role.

Q. And did Mike express any view about any of the assets that came over, good assets, bad assets?

A. No.

Q. Do you know if by the Monday anybody had looked to see whether -- to make any determination about the quality of the assets that came over, quality of the securities that came over?

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A. I would imagine -- I don't know that definitively. I would imagine that they had a lot of traders looking at the assets that came over. I would imagine they were trying to sell and trying to understand what -- I would imagine traders are looking at assets, one, to try to sell the assets and, two, to figure out who would borrow those securities so we could finance those positions.

The Fed was going to allow us to put that collateral back to them into those three facilities, but not for a prolonged period of time. They had an expectation that we would -- that they would be able to step out of the trade. They were able to, instead of finance Lehman Brothers, now they were financing Barclays, and they had an expectation that we would get rid of those assets or finance them through third parties.

Q. So Mike, the view that Mike expressed was you should have gotten the 42?

A. Should have gotten -- the view that Mike expressed was specifically was related to 7 billion in cash.

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Q. Okay.

A. Right? Because, theoretically, that 7 billion in cash should have attracted something greater than \$7 billion in collateral.

Q. So, okay, so you have the 42 --

A. Uh-huh.

Q. -- of securities plus the 7 billion in cash?

A. Correct.

Q. Mike's view is if you got 7 billion, you should have gotten 7 billion more in securities plus a haircut?

A. Securities plus a haircut, correct.

Q. And nothing he says in this conversation expresses any view about the quality of what you did get, the securities that you did get?

A. No. I'm not a trader, so I'm not --

Q. I'm just trying to find out what Mike said.

(Exhibit 202, a document bearing Bates Nos. ECI-EX-00000042 through 43, marked for identification, as of this date.)

Q. Mr. LaRocca, I've put before you what TSG Reporting - Worldwide (877) 702-9580

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we've marked as Deposition Exhibit 202, a two-page document bearing Bates number BCI-EX-00000042 to 43. Take a look through that and let me know whether you've seen the document before, and just let me direct your attention to your name at the very end of that distribution list.

A. I see I'm on the distribution.

(Document review.)

A. I don't recall seeing this, right? I've read it, right? And at a high level I understand it, but I suspect this is probably one of hundreds of documents that you'll have my name on.

Q. Okay. Well, having looked through it, and I understand you haven't had time to study it, does it roughly lay out -- we're on Thursday, September 18, shortly after midnight. See the time and date on there up at the top?

A. Yes, I see the time. I'm trying to put that in context.

MR. STERN: Take your time to read it.

A. All right. So this is Thursday in the early A.M. before we move the securities, right?
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Q. Well, that's what I'm going to ask you.

A. Okay. Okay.

Q. Having looked through it, I don't want to spend a lot of time on this document, does it roughly lay out what the plan was with respect to --

A. Yeah, roughly it does. Right? So like I said, came back from the Fed on Wednesday night, mobilized the team, and they're obviously working through the night figuring out how we're going to do this.

Q. Now I'd like to move in time to --

A. Do you want this back?

Q. Just keep it over there because sometimes we go back to the exhibits.

(Exhibit 203, a document bearing Bates Nos. BCI-EX-00000080, marked for identification, as of this date.)

Q. Mr. LaRocca, you have in front of you a one-page e-mail which we have marked as Deposition Exhibit 203, bearing Bates No. BCI-EX-00000080?

A. Yes.

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Q. Do you recall receiving this e-mail?

A. Do not recall receiving this e-mail.

Q. Who is Marty Malloy?

A. Marty Malloy is a trader in our stock loan area who would be responsible for trying to finance some of this collateral with third parties after it arrived.

MR. GAFFEY: Can we go off the record for one second?

(Discussion off the record.)

Q. The e-mail is entitled "Totals for the Fed Facility Collateral," and there's an annotation on here that says, "Total securities and cash received: 52.19." I'm assuming these numbers are in the billions, yes? I can read that as 52.19 billion?

A. I would think so.

Q. Okay. And further up there, there's an entry that says "Repo Cash: 7 billion"?

A. Okay.

Q. I'm trying to get this into a timing context. Does this reflect how much value Barclays received -- well, thought it received as of September 19 at 11?

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A. I have no idea. Right? I just have no idea. I don't know where Marty's getting these numbers from.

Q. Uh-huh.

A. How he's describing, you know, he's, you know, you know, he's reporting me some numbers. I'm on an e-mail where he's reporting some numbers that suggests we got 52 billion. This would have been 11:51 A.M., right?

Q. Uh-huh.

A. I just, I don't know how he -- I don't know where he got the numbers from or how he would have gotten the numbers from.

Q. There's a phrase you used before, "excess collateral," and there's an entry here for excess collateral of 7.19. What do you understand Mr. Malloy to be reporting to you there?

A. I have no -- I just don't know what that number is.

Q. Well, you got the repo cash amount.

You know, actually, I'm not sure we've used this term all morning, so let me -- apart from the document for a moment, when you've been

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talking about the Fed facility?

A. Right.

Q. And then the Barclays what you call the replacement transaction?

A. Fed replacement transaction, right.

Q. These are repurchase agreements, yes?

A. I hesitate because I -- I don't, you know, I don't know how the, you know, I don't know if there are documents associated with the transaction and what the documents say, right? From a processing point of view, okay, from a processing point of view at a high level, I think of it as a simple reverse repo where I reverse in collateral and I pay cash.

Q. Uh-huh.

A. Now, the reality of that is, at a high level, but the devil's in the details, right, so the wirable securities are going to get processed one way, equities are going to get processed one way, corporates will get processed a different way, they're going to settle differently, how they're reflected in our systems, whether it be, you know, you know, so at the high level, I think like you think, you

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know, it's a -- it's being -- I think of it as a reverse repo.

Q. Okay.

A. I think of a Fed replacement transaction as a reverse repo.

Q. So the repo cash amount that's listed here on Exhibit 203 --

A. Right.

Q. -- that would be -- that's the 45 billion that Barclays sent over, yes?

A. I presume that's what it is, yes.

Q. And the margin which is put at 14 percent here, right? Is that what you have referred to as the haircut?

MR. STERN: Objection to the form.

A. I just don't know where these numbers are coming from or how Marty's derived it, right?

Q. Okay.

A. My recollection is having 42 and being short 7.

Q. You know, I'm going to go back to that. It's one of the reasons I'm being quite careful about -- as careful as I can be about

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the dates I'm asking about.

This is the 19th at 11:14 A.M. We'll talk later about whether the 7 billion arrived and ultimately when it did or didn't, but if you could just sort of snapshot this for me at the time that you're seeing that e-mail, that's the frame I want to put around my questions, okay?

We have marked as --

Go ahead, sure.

MR. STERN: Let him ask a question.

This is the next exhibit.

(Exhibit 204, a document bearing Bates Nos. BCI-EX-00000081, marked for identification, as of this date.)

Q. Before you is Exhibit 204 bearing Bates No. BCI-EX-00000081, a one-page e-mail from you to Mike Keegan?

A. Right.

Q. And this appears to be you forwarding to Keegan Malloy's e-mail to you.

A. Yes.

Q. Why did you send that on to Keegan?

A. He would be Steven King's boss. No other reason than, you know, because Steven King

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2 worked for Mike Keegan.

3 Q. Okay. Why would you send it on
4 instead of King sending it on? Any reason?

5 A. Maybe Stephen King did. Maybe Stephen
6 King did send it on. I don't know, right? You
7 know, but Mike, like I said, Mike would be, as I
8 indicated earlier, Mike would have some
9 responsibility of managing a subset of this
10 collateral that comes across. Stephen King
11 works for Mike, so I'm not managing the
12 collateral coming across.

13 Q. Yeah.

14 A. It would have been Marty Malloy who's
15 got to finance it. Stephen King and Mike Keegan
16 who have to manage the risk.

17 Q. In my own layman's terms, it sounds to
18 me like your job is to get it in the house and
19 somebody else's job to make money with it?

20 A. Absolutely. Absolutely.

21 Q. All right.

22 A. So Marty's got to worry about
23 financing the assets. Mike Keegan and Stephen
24 King have to worry about hedging it, managing
25 the risk. Right?

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2 get it in the house, other people's job to make
3 money with it. Is this reporting, this is a
4 useful piece of information to you, yes? This
5 is what somebody thinks arrived, yes?

6 A. It's of no utility to me. It's of
7 little utility to anyone. Okay? What's going
8 to be important is the detailed listing of the
9 thousands and thousands and thousands of Cusips,
10 the values that have been ascribed to each
11 Cusip, and then traders could begin to do their
12 work, right? This is -- this isn't worth the
13 paper it's printed on. Just, you know, the --

14 Q. So, as you sit here today looking at
15 it, you don't know one way or the other whether
16 it's an accurate description?

17 A. Correct.

18 Q. Okay. We're done with that for now.
19 Thanks.

20 A. I don't even know, okay, if the
21 valuations, the running totals that I alluded to
22 earlier, if they're current prices, the day
23 before's close. You know, securities are coming
24 across. I alluded to the ops. guys are trying
25 to keep a running total, right? You know,

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2 Q. When we talked a moment ago about
3 Keegan being critical about accepting 7 billion
4 in cash?

5 A. Uh-huh.

6 Q. One of the reasons I have shown you
7 this document is to ask you whether it was this
8 reference to 7 billion repo cash that --

9 A. No, would not, because Mike made the
10 comment on the Monday after we -- because, you
11 know, after we had taken the cash.

12 Q. Okay. Did you have any response from
13 Mike -- there's sort of a gap in the sequence we
14 talked about before over the weekend, and I just
15 want to see if this refreshes your recollection.

16 A. No.

17 Q. Any conversations over the weekend or
18 communications over the weekend with Mike about
19 the 7 billion cash?

20 A. No. The, again, the -- my job almost
21 kind of on Friday, it's kind of now with traders
22 who got to figure out how to hedge, manage risk,
23 and I'm not part of that -- it's not what I do.

24 Q. Okay. Was part of what you do,
25 though, to, you know, as I said, your job is to

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2 relying on systems.

3 I mean, you got to remember the
4 markets are volatile, right? And everyone at
5 Barclays is concerned that we're going to be
6 short, you know, and because the markets
7 movement, markets are moving, markets were very
8 volatile during that period of time.

9 Q. Let's go back now into the chronology
10 we were talking about before. When last we left
11 it, you went to the closing, some stuff got
12 signed, you went home and got some sleep.

13 You mentioned before Barclays was
14 concerned that it might be short. Is there any
15 determination made after the closing about that?

16 A. Again, I'm not privy to -- I'm just
17 not in that circle, right? I mean...

18 Q. Well, let me ask you this. What are
19 your activities with respect to the transaction
20 starting on --

21 A. On the Monday?

22 Q. Yeah, after the closing.

23 A. Starting to work on integration,
24 thinking about integrating -- let me pause.
25 Would have been thinking about integration would

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2 after that. That gentleman's name is Jai
3 Westwood. He's one of my direct reports and,
4 you know, he would have, again, been trying to
5 go figure out what needs to be done and be a
6 central point of contact.
7 **Q. And other than assigning him to it,**
8 **did you have any involvement in it?**
9 A. No.
10 I want to clarify. There was the --
11 other than assigning him, I had nothing to do
12 with it, with the one exception being, and I'm
13 not sure if it's days or weeks after, there was
14 a debate or a dispute with American Express, and
15 I didn't have much to do with it other than I
16 knew there was some kind of disagreement between
17 Barclays and American Express as to whether, you
18 know, we should honor, step into that
19 commitment.
20 I don't know the details. It was
21 brought to my attention by someone in Legal and
22 Jai Westwood, and I said just reach a
23 settlement. So, other than that, I was not
24 involved -- not involved in that aspect of the
25 integration contracts.
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2 account into our account at Bank of New York,
3 and I believe it was Tuesday that I was informed
4 that the cash was no longer in our account.
5 **Q. So what happened then?**
6 A. Would have escalated it to numerous
7 people.
8 **Q. Presumably Rich Ricci, right?**
9 A. Rich Ricci and Jonathan Hughes would
10 have been certainly two people. Maybe more, but
11 certainly would have alerted our legal group and
12 Rich Ricci and would have also alerted the Fed.
13 It would have been most likely Stephanie Heller
14 at the Fed.
15 **Q. Why would it most likely be Stephanie**
16 **Heller at the Fed? Was that someone you dealt**
17 **with?**
18 A. Stephanie would have -- I think during
19 the week I alluded to the fact that when we
20 started the replacement transaction and JPMorgan
21 wasn't moving the securities over in a timely
22 basis, they wanted to hold the margin, right, to
23 satisfy their liens against Lehman Brothers.
24 Stephanie would have been the person that became
25 my interface.
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2 **Q. Let's go back to the area that you**
3 **said was a huge area of focus. That's the,**
4 **shortly after the closing, it was realized that**
5 **7 billion was not in your account?**
6 A. Yes.
7 **Q. Take me through the steps of that.**
8 **Who realizes it and what follows?**
9 A. After that Monday, after the closing,
10 we had -- we -- I had instructed our ops. guys
11 to move the \$7 billion in cash out of our
12 account at JPMorgan into our account at the Bank
13 of New York.
14 Our ops. guys instructed JPMorgan to
15 move the cash. JPMorgan did not act on those
16 instructions. That would have been escalated to
17 me, their failure to act. We would have
18 instructed again movement on Tuesday. Tuesday I
19 believe I was alerted that the cash was no
20 longer in our account.
21 To the best of my recollection, that
22 was the timeline. So Monday we believed the \$7
23 billion was in our account. I had seen a bank
24 statement to evidence its existence in our
25 account. We tried to move the money out of our
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2 **Q. Okay.**
3 A. Okay? So Lucinda Brickler was the
4 person that we negotiated how the transaction
5 was going to work, and then regarding the
6 performance of JPMorgan during -- Stephanie
7 somehow emerges as my interface.
8 **Q. Okay. All right. So it's escalated**
9 **to Ricci, Hughes --**
10 A. And the Fed.
11 **Q. -- and the Fed. What happens after**
12 **that?**
13 A. Then Jonathan Hughes becomes the
14 primary interface with JPMorgan.
15 **Q. Did you ever learn what happened to**
16 **the \$7 billion? It was in your account?**
17 A. It was in our account.
18 **Q. And now it's not in your account?**
19 A. Now not in our account.
20 **Q. Did you ever learn where it went?**
21 A. No.
22 **Q. Through today you've never learned**
23 **where the 7 billion went?**
24 A. No.
25 **Q. Do you know if Barclays got it back?**
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A. Well, I know we -- I know Barclays reached a settlement with JPMorgan. I was at that settlement at the bankruptcy court and we got something less than \$7 billion.

Q. Do you know how much you got?

A. I can't be precise. So if you want a definitive, specific amount, no. I think if you want a range, my recollection might have been in the 4 billion plus change, you know, 4 billion plus -- again, I'm, you know --

Q. Yeah.

A. -- it's not my, you know. If that was my job, I would know the numbers like I would know my phone number, but that wasn't --

Q. What were the components of what you received, cash and securities?

A. Cash component and stock component or cash and securities component. I don't know if the securities were equities, government, I just don't know.

Q. Do you have any recollection of how much the cash component was?

A. No.

Q. And again, I'll ask you about the

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quality of the securities that Barclays got as part of the JPM settlement. Do you have any knowledge about that?

A. No.

Q. So what I'm pressing on here a bit is what you know or don't know about the basis for saying you got -- that what Barclays got was worth something less than 7 billion. I'm just looking for your personal knowledge about that.

Why do you say that?

A. I was at the court proceedings and the judge asked for a value to be ascribed, and people testified that or, you know, that the value was significantly less than the \$7 billion, so it should be a -- it should be -- it should be a court record. So my knowledge is what I've heard.

Q. Okay.

(Exhibit 205, Motion Under 11 U.S.C. Sections 105 and 363 and Fed. R. Bankr. P. 9019(a) for Entry of an Order Approving Settlement Agreement, marked for identification, as of this date.)

Q. Mr. LaRocca, I have put before you
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what we have marked as Exhibit 205, a document entitled Motion Under 11 U.S.C. Sections 105 and 363 and Federal Rule of Bankruptcy Procedure 9019(a) for Entry of an Order Approving Settlement Agreement.

It's a fairly long document. Take a minute, you don't have to read the whole thing, but just enough to familiarize yourself with what's in there.

A. Is this the document that got -- that's December that got presented or --

Q. Yeah, I think so.

A. December 22 --

MR. STERN: Yes.

A. Okay.

Q. Just so you can put in your own head where we are here, there's an affidavit by you in here, which is the last document. It's like the last ten pages or so.

A. The last ten pages?

Q. Yeah.

MR. STERN: Let me just show you.

There's a motion, right? It's a legal motion. Then there's a settlement

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agreement, and then after the settlement agreement, I think there are a couple of declarations. One is Shari Leventhal and one is yours.

THE WITNESS: Uh-huh. Did I sign this?

MR. STERN: Your declaration is --

THE WITNESS: I know I signed this. Did I sign the settlement agreement? Rich did. Looks like Rich signed it. Okay.

MR. STERN: So do you want him to review his declaration.

Q. Yeah, my question -- my first question is have you seen all of this before, but then we're going to ask about your declaration.

A. I clearly have seen my declaration. I think I've seen Shari Leventhal's declaration. I recall seeing Shari's declaration, although I don't remember it and I would have to read it again.

Q. Okay.

A. Regarding this -- the -- I don't recall -- I don't recall receiving this settlement agreement.

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2 and, you know, that are going between Ops. and
3 salesmen or traders or Bank of New York or
4 JPMorgan. I mean, but, you know, my job is not
5 to reconcile, sort those things, so if I got
6 this, I wouldn't have even opened the
7 attachment.

8 **Q. Okay.**

9 A. And if so, you know, not only -- so I
10 don't recall seeing it, and I just wouldn't have
11 been looking at spreadsheets and --

12 **Q. Okay.**

13 A. I don't have --

14 **Q. As I get it, at best, what your job is**
15 **is to make sure whoever needs to see that to**
16 **analyze it does, yes?**

17 A. So if someone sent me a document that
18 this is what JPMorgan, I would have hit forward,
19 you know, John Rodefled, forward Marty Malloy,
20 and, sssht.

21 **Q. That's back to that air traffic**
22 **controller role we talked about before?**

23 A. Absolutely. I mean ...

24 **Q. I'm going to give you three documents**
25 **at once here. Now, I've placed before you,**
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2 **Mr. LaRocca, what we have marked at previous**
3 **depositions as Exhibits 86B, 87B, and 88B, and**
4 **with respect to all three documents, I'll ask**
5 **you, have you seen them before?**

6 A. These specific documents, you know,
7 with absolute certainty, I don't recall. I
8 would not be surprised, again, not unlike the
9 comments I made earlier where, you know, I'm
10 CC'd or of every e-mail. These would be reports
11 prepared by our accounting group.

12 **Q. Okay.**

13 A. But I wouldn't do any -- you know,
14 again, very much like, you know, someone giving
15 me an FYI, this is kind of how it's broken out,
16 right?

17 **Q. Well, let me ask you this, and again,**
18 **with respect to all three, if I were to go**
19 **through the columns on these documents and ask**
20 **you what they mean and what this is meant to**
21 **show?**

22 A. I can speculate, but I couldn't tell
23 you with a hundred percent certainty. Right?

24 **Q. Okay. Do you know, as a general**
25 **matter, again, without regard to the documents**
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2 **in your hand --**

3 A. Yeah.

4 **Q. -- just generally, do you know if any**
5 **work or any type of project was undertaken**
6 **within Barclays to value the securities received**
7 **in connection with the JPM settlement?**

8 A. In connection with?

9 **Q. With the settlement. With the**
10 **discussion.**

11 A. The \$7 billion?

12 **Q. Yes.**

13 A. I can't be certain.

14 **Q. Okay.**

15 A. I know that there was -- I believe, I
16 believe that there was a spreadsheet of
17 securities that would come across as part of the
18 settlement and I would think that our traders
19 put a value to, but I wouldn't have had sight of
20 that or --

21 **Q. Or involvement in it?**

22 A. Yeah, or involvement in it, but I
23 don't think we would agree to a settlement
24 without the -- without getting a look at the
25 collateral that was going to move.

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2 **Q. Okay. I want to go back to Exhibit**
3 **205.**

4 MR. GAFFEY: That's the motion papers,
5 please, Jack.

6 **Q. And I want to spend a little time,**
7 **Mr. LaRocca, on your declaration. If you could**
8 **turn to that.**

9 A. Which is page?

10 **Q. The problem is I don't have page**
11 **numbers. I believe it's the last six or seven**
12 **pages. Actually, if you hand me the document,**
13 **I'm get you right there.**

14 A. I got it.

15 **Q. So we're at the Declaration of Gerard**
16 **LaRocca in Support of the Trustee's Motion For**
17 **Entry of Order Approving the Settlement**
18 **Agreement?**

19 A. Yes.

20 MR. STERN: Have you read this in a
21 while? He may need to read it.

22 THE WITNESS: Not in a while.

23 **Q. Why don't you take a minute and read**
24 **it through because we're going to spend some**
25 **time on this.**

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(Discussion off the record.)
(Document review.)

A. Okay.

Q. Okay?

A. Yep.

Q. As a general matter, at the time that you signed this, you reviewed it and determined that it was true?

A. Uh-huh. Correct.

Q. And where you say in paragraph 1 of the declaration that you have -- that, "Except where stated otherwise, I have personal knowledge of the facts set forth in this declaration," that statement is true as well, yes?

A. Right.

Q. Now, in your declaration, Mr. LaRocca, you generally describe what you've been referring to here as the replacement transaction?

A. Uh-huh.

Q. That's when Barclays begins to supply financing that the Fed previously had supplied, yes?

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A. Correct.

Q. And you say in paragraph 6 of your declaration -- withdrawn. Who drafted this declaration for you to sign?

A. Jonathan Hughes. Now, Jonathan Hughes would have drafted it.

Q. And I don't want to know the substance of your conversations with Mr. Hughes, but I'd like a yes/no answer to this question. Did it go through more than one draft?

A. Yes.

Q. Did it go through more than one draft so that you could be certain that what you were saying in there was accurate?

A. Correct.

Q. And again, without the substance, just yes or no, please, did you make corrections to drafts that you saw before a final was arrived at, as opposed to others making corrections?

A. Yes.

Q. Okay. If you could go back to paragraph 6, you describe in there that -- I'm at the second sentence: "Thus, as Barclays and LBI had agreed, Barclays transferred \$45 billion

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to LBI at a JPMorgan account that afternoon and early evening," right?

Neither there nor anywhere else in the declaration is there a reference to the securities that LBI transferred to Barclays as part of this repo.

A. Okay.

Q. Is there a reason for that?

MR. STERN: Objection to the form.

You say "reference to the securities."

Well --

Q. Actually, let me be a little more precise.

MR. STERN: Paragraph 6 --

Q. In paragraph 5 there's a reference to securities being pledged. My question is there's no reference to the amount, the value of securities being sent over?

A. There's no reference to the value, correct.

Q. Is there a reason for that?

A. No particular reason at the time. It wasn't a conscious omission or anything, just, you know, I wouldn't have known the value so I

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couldn't make a declaration, right?

Q. And you describe through paragraphs 6, 7, 8 and 9 what we've been talking about a bit today?

A. Uh-huh.

Q. Which are the difficulties in executing fully on the transaction and the story about the 7 billion cash?

A. Uh-huh.

Q. Is that a fair summary?

A. Correct.

Q. In paragraph 9 refers to opening of business on September 19. You with me there? It's the second sentence.

A. Paragraph 9, yep.

Q. What you're describing there -- let me read the first two sentences: "When the Fed, Barclays and LBI originally agreed to engage in the replacement transaction, the parties intended for all of the Fed portfolio securities to be delivered to Barclays under the replacement transaction. As that had not happened as contemplated by the opening of business on Friday, September 19, 2008, LBI and

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Barclays discussed during the business day on September 19 and into the weekend of September 20, 2008, the transfer to Barclays of the portion of the federal portfolio securities that had not yet been delivered as originally contemplated."

I read you that again to put you at a place and a time. We're on the morning of September 19. Did at any time, sir, it come to your attention, cross your screen in any way that there would be an effort by Lehman to find additional value to give to Barclays? By "additional," I mean apart from what was contemplated in the transfer of the Fed portfolio over to Barclays.

A. Not as it relates to the Fed replacement transaction.

Q. Okay. Do you have knowledge of that as it relates to something else?

A. The -- not specific detailed knowledge.

Q. Uh-huh.

A. My -- the context is Barclays is, again, being around, you know, I'm aware that, TSG Reporting - Worldwide (877) 702-9580

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you know, Barclays is trying to derive value from the transaction because of we're acquiring a firm, assets that we don't know the value of, assets -- you know, so I'm aware that there's discussion on how do we get value out of this transaction, how do we make sure we don't inherit a mess, don't get toxic assets, don't lose money, you know, the view of management or the people is that, you know, this is a very risky transaction to Barclays and we're going to end up with collateral from the repo transaction that we're not sure what it's worth, you know, the market, you know, so I'm -- you know, but not -- I wasn't privy or part of the deal team at all in terms of other elements of the transaction.

Q. You were in court for a part of the hearing on Friday, the 19th, part of the hearing before Judge Peck on the 19th, correct?

A. Correct.

Q. Okay. We talked about that a bit before.

A. Yeah.

Q. At any point during that hearing did TSG Reporting - Worldwide (877) 702-9580

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you hear anyone tell the judge that the value of the deal had dropped?

A. I don't recall.

Q. Did you have an understanding by Friday, the 19th, that the value of the deal had decreased, had dropped?

A. On Friday, the 19th?

Q. Yes.

A. From what point -- from what perspective?

Q. From the deal that had been contemplated on Tuesday, the 16th, to the situation as it existed on September -- on Friday, the 19th?

A. Not in a detailed way. I knew that the deal had changed in some way, but no specifics.

Q. You mentioned a bit before, I think, I may be wrong about this, I think you said it was on the Thursday you used a phrase like the lightbulb went on and you realized we're not buying a broker-dealer at this point?

A. Yeah.

Q. Now we're buying assets?

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A. Yes.

Q. Moving into the Friday morning -- actually, anytime during the Friday, did it ever come to your attention that Barclays had demanded from Lehman that additional sources of value be found and turned over to Barclays, other than the assets that were within the repo?

A. Yes, but no specifics, right? And I would have -- so, yes, right? I was aware that Barclays was looking to give value from the transaction other than the repo, right? And my experience with the repo, right, and the core information that Lehman had provided to us relative to kind of what they believed to be held at the Fed, right, forced me to be cautious about all information that we would have gotten from Lehman.

So the -- would have alerted Rich, Rich, you know, Lehman hasn't been able to produce a position report, reconcile bank accounts, reconcile stock record for weeks, right, so you need to be very cautious about value that they say exists.

I could give you a very specific

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example.

Q. Okay.

A. There was some foreign exchange. You can settle European currencies, what I call G7, you know, in CLS. It's kind of a riskless settlement process, right? So that's why I was very comfortable for Barclays to provide some intraday liquidity. Settlement is certain, right?

Lehman Brothers has foreign exchange transactions that settled in local markets. They settle outside CLS. They believe that they had a bunch of foreign exchange trades that, if settled, right, would result in value to the organization, to Lehman Brothers, right? Their information was two weeks old, right?

And I said, you know, Rich, I said, those trades closed out weeks ago. Those counterparties walked away from those trade. So that was kind of the environment, right? So, do I believe Barclays was looking for value? I believe Barclays was grasping at straws because there was so much uncertainty, so much risk.

Q. And specifically with reference to the TSG Reporting - Worldwide (877) 702-9580

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Friday, the 19th, and looking for value, there's two general --

A. I can't tell --

MR. STERN: Let him ask you a question.

Q. Let me frame it so you know what I'm looking for. We've got the assets that are within the repo, right?

A. Yeah.

Q. And you mentioned before, and we'll talk some more about this, how the deal became moving those assets over to Barclays?

A. Uh-huh.

Q. My question goes to, outside that box, are there other categories of assets that Barclays told Lehman it wanted in order to close the deal?

MR. STERN: Objection. I have to object to the form of that.

Q. You can answer it anyway, sir. I'm not too worried about admissibility. I just want to set a platform here.

A. I can't give you any specifics. I wouldn't have been part of any of that. You

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know, I wouldn't have been involved in any detailed way.

Q. Does the phrase "15c3 funds" ring a bell?

A. Yeah, absolutely. Right? Lehman Brothers believed that there was an excess in 15c3 based upon a calculation they did two weeks ago. I would have alerted our deal team that, you know, they can't substantiate any of this data.

Q. Do you know if the 15c3 excess was transferred to Barclays as part of the transaction?

A. No idea.

Q. Do you know anything about an effort to find assets, unencumbered assets, in clearance boxes?

A. I don't know. Can you ask the question again?

Q. You know what, I'm going to withdraw that. There's a letter I want to show you and it's got some stuff in it. It's probably more focused if I give it to you that way.

Can we go back to your deposition --

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I'm sorry, your declaration for a minute? You describe in here, I'm at paragraph 10 --

You're going to need to go back into that.

A. Paragraph 10, yes.

Q. We're at paragraph 10, and you're describing how the replacement transaction was structured as a reverse repurchase transaction?

A. Uh-huh, yes.

Q. And you say, "As part of the APA" -- that would be the Asset Purchase Agreement?

A. Yeah.

Q. "As part of the APA, however, Barclays would be acquiring (without LBI having any repurchase obligations) the very securities that had been delivered under the Replacement Transaction. Thus, at the closing of the APA transaction on Monday, September 22, 2008, the Clarification Letter to the APA, dated as of September 20, 2008 (the 'Clarification Letter')," in paren, "simply terminated the repurchase part of the Replacement Transaction with respect to 'all securities and other assets held by' Barclays 'under the September 18, 2008

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repurchase arrangement among' Barclays and LBI. This termination meant that all of the securities that were actually delivered on September 18, 2008, and that were by then held in a Barclays account at the Bank of New York were 'deemed to constitute part of the Purchased Assets' under the APA (and thus LBI would have no further obligation to 'repurchase' those securities and Barclays would not be obligated to deliver such securities back to LBI)."

Now, I want to go through that a bit and maybe decode it into some layman's terms, but also, first, did you have -- when you signed this declaration and it was referring to all the securities and other assets held by Barclays, that would be that would go to Barclays when the replacement transaction was simply terminated, when the repo was simply terminated, did you have an idea what the value, what the quantum of those securities were?

A. No.

Q. Do you know if they exceeded the \$45 billion that Barclays had given Lehman?

A. No.

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Q. You talked a bit before about that -- you've used the term "excess collateral"?

A. Uh-huh.

Q. And you said you viewed this as, essentially, a reverse repo?

A. Yes.

Q. Is it your understanding that in a reverse repo there was a haircut?

A. Correct.

Q. There is protection of some kind?

A. Yes.

Q. So, and that protection is to be found in the difference between the amount --

A. Of cash.

Q. -- funded --

A. Correct.

Q. -- by the purchaser?

A. Uh-huh.

Q. And the collateral pledged --

A. Pledged.

Q. -- by the seller --

A. Uh-huh.

Q. -- in the first leg of the repo, right?

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A. Correct.

Q. And a repo as it normally is conducted, the next day or whatever the term of the repo is, yesterday's purchaser sells it back?

A. Correct.

Q. And delivers back the excess collateral less the implied interest rate, right?

A. Uh-huh.

Q. Now, you mentioned a little while ago that it came to your attention, it was described to you somehow that in a bankruptcy that might not be the way things go?

A. The unwind would not, right.

Q. Can you expand on that a little bit? What did you learn about the difference between what happens in the unwind on a bankruptcy and an unwind in a non-bankruptcy situation?

A. Nothing too interesting here. Very simple, right? So when we agreed to step in for the Fed as providing financing, and we agreed a reverse repo, I would have talked to our lawyer, Jonathan Hughes, our general counsel, and said

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we can't do the unwind, and Jonathan would have said, under bankruptcy law, right, the repo, you, you know, you don't do the unwind, the assets don't get tied up, in bankruptcy proceedings you own the collateral. Nothing more than that.

Q. Any distinction between, in that analysis, between the -- between the amount financed and the excess collateral? Let's use a 45 and 50 billion dollar example. There's \$45 billion advanced by the purchaser --

A. Right.

Q. -- here Barclays to Lehman, right? And there's 50 billion in security pledged by Lehman to Barclays?

A. It's commonplace, right, if you're going to close out a repo or close out a counterparty, the margin is -- accrues to the dealer, the person that's reversing the collateral, to cover their risk associated with a fire sale or collateral liquidation, right?

Q. Okay. So I want to deal with your understanding of a default in a non-bankrupt circumstance. You may have just answered that,

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but I want to make my record as clear as I can.

Absent bankruptcy, there's no bankruptcy, and there's a default on a repurchase obligation?

A. Right.

Q. Then yesterday's purchaser --

A. Yes.

Q. -- is holding the collateral?

A. Plus margin.

Q. Plus margin, right?

What's your understanding of who gets the margin in that circumstance?

A. I believe the person that owns the collateral.

Q. Okay. Gets to keep it all?

A. Gets to keep it all. Don't know that definitively, but that's my understanding.

Q. And in a bankruptcy situation, does that change?

A. I don't know definitively.

Q. Okay. Did you have, at the time of the transaction, did you have an understanding of what you thought happened in a bankruptcy situation?

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A. My understanding is that we would be left with the collateral, right? And there was hope that the collateral would be in excess of the cash, right?

Q. And in the bankruptcy, when there's a bankruptcy in the picture, what was your understanding as to who gets to keep the margin?

A. The Barclays would keep the margin.

Q. And you described in paragraph 10 of your declaration that the repurchase was -- and these are the words -- "simply terminated," end paren, and you're referring to the clarification letter.

A. I'm sorry, where does it reference?

Q. I'm in paragraph 10.

A. "Simply" --

Q. It's the third sentence of the paragraph that begins "thus at the closing."

A. Right.

Q. Just read through that sentence in full to yourself.

A. Yes. Okay.

Q. I guess my question is, did you have an understanding as to why in the clarification

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letter it was agreed to simply terminate the repurchase?

A. I'm sorry, I don't understand your question, right? You know, my --

Q. Let me try and rephrase it, then, because I don't want to be at cross purposes.

If it was your understanding that you'd get to keep the margin anyway?

A. Uh-huh.

Q. Why would you have to terminate the repurchase?

MR. STERN: Objection to the form.

A. I'm not sure I understand your question. Here, the declaration says the termination of the repo, it facilitates that those transactions become a part of the Asset Purchase Agreement. You know, the --- I'm not trying to be difficult.

Q. No, no, it's a difficult topic, and I'm -- I don't think you're trying to be difficult.

A. Okay.

Q. It's a complicated thing to ask questions about and to get answers on, so we'll

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just have to work at it a little bit.

I'm going to show you what was marked at a prior deposition, sir, as Exhibit 25.

That's a copy of the clarification letter that I think you're referring to in paragraph 10.

Take a look through that, sir, and tell me if you've seen it before and take note of what appears to be your signature at the end.

A. Actually, I don't recall seeing it before. Is my signature on a page?

Q. Take a look at the --

A. It wouldn't surprise me since I'm an officer of BCI.

There it is, okay.

Q. You got it there?

A. Uh-huh.

Q. That's your signature?

A. Yeah, absolutely.

Q. Okay. And if you can --

A. I see this one didn't have it. That's why --

MR. STERN: It's different page.

THE WITNESS: Is there a different page? There it is, okay.

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Q. You see where your signature is?</p> <p>3 A. Yes.</p> <p>4 Q. Now, the signature pages are what are</p> <p>5 sometimes referred to as counterpart signature</p> <p>6 pages. When you signed, do you recall if when</p> <p>7 you signed the document the signature page was</p> <p>8 attached to it?</p> <p>9 A. I don't remember.</p> <p>10 Q. Do you have any recollection of just</p> <p>11 signing signature pages?</p> <p>12 A. I wouldn't normally do that. Right?</p> <p>13 Q. When you signed an agreement, you</p> <p>14 would read through it before you signed it?</p> <p>15 A. One of two things. I would either</p> <p>16 read it myself, but I don't always read all the</p> <p>17 documents, or I would want to know who has --</p> <p>18 where the document comes from, who signed it,</p> <p>19 who's authorized it, right? Whether Legal has</p> <p>20 seen it.</p> <p>21 Q. Do you have any recollection of what</p> <p>22 process you went through with respect to --</p> <p>23 A. Don't even -- don't even remember the</p> <p>24 document.</p> <p>25 Q. I need to just put a full question on</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 the record, okay?</p> <p>3 Do you have a recollection of what</p> <p>4 process you went through with respect to the</p> <p>5 clarification letter marked as Deposition</p> <p>6 Exhibit 25?</p> <p>7 A. No.</p> <p>8 Q. Okay.</p> <p>9 MR. GAFFEY: Let's go off the record</p> <p>10 for a second.</p> <p>11 (Discussion off the record.)</p> <p>12 (Luncheon Recess; Time Noted: 12:15</p> <p>13 P.M.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 AFTERNOON SESSION</p> <p>3 (Time Noted: 12:58 P.M.)</p> <p>4 GERARD LaROCCA, resumed and</p> <p>5 testified further as follows:</p> <p>6 EXAMINATION BY (Cont'd.)</p> <p>7 MR. GAFFEY:</p> <p>8 Q. I want to mark another set of</p> <p>9 documents so we can talk about them as a set.</p> <p>10 Mr. LaRocca, I'm putting before you</p> <p>11 what was marked at a previous deposition as</p> <p>12 Exhibit 1 and Exhibit 24 and Exhibit 51.</p> <p>13 Now, what I've put before with you,</p> <p>14 Mr. LaRocca, Exhibit 1 is entitled Asset</p> <p>15 Purchase Agreement, Exhibit 24 is a First</p> <p>16 Amendment, Exhibit 51 is entitled Transfer and</p> <p>17 Assumption Agreement, and then before the break,</p> <p>18 I put in front of you Exhibit 25, which is the</p> <p>19 clarification letter.</p> <p>20 A. Yes.</p> <p>21 Q. All right. So for a while I want to</p> <p>22 ask you some questions about this collection of</p> <p>23 documents.</p> <p>24 First, let me just ask you to take a</p> <p>25 look at them sufficiently to tell me whether</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 you've seen each one before and whether each of</p> <p>3 them bears your signature.</p> <p>4 A. They do bear my signature.</p> <p>5 Q. Okay.</p> <p>6 MR. STERN: Read them carefully now.</p> <p>7 I'm not sure they all do.</p> <p>8 A. The Transfer and Assumption Agreement</p> <p>9 bears my signature.</p> <p>10 Q. Okay.</p> <p>11 A. And I believe the Asset Purchase</p> <p>12 Agreement has my signature. Yes.</p> <p>13 Q. And I think what Jack may be referring</p> <p>14 to --</p> <p>15 A. The First Amendment does not bear my</p> <p>16 signature.</p> <p>17 Q. Okay. Do you recognize that to be the</p> <p>18 signature of Archibald Cox?</p> <p>19 A. You know what, I'm not familiar with</p> <p>20 his John Hancock --</p> <p>21 Q. All right.</p> <p>22 A. -- to definitely opine.</p> <p>23 Q. Put the First Amendment aside for the</p> <p>24 moment. What do you generally recognize these</p> <p>25 documents to be?</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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A. I would just categorize them as part of the agreements and documentation associated with the Barclays transaction with Lehman Brothers.

Q. Now, the first of these that I want to ask you about is Exhibit 1, the Asset Purchase Agreement.

A. Uh-huh.

Q. When we spoke before the lunch break, you described your understanding of what was going on in the early part of the week post-bankruptcy. I'm in that week starting the 15th, the Monday.

As purchasing a broker-dealer --

A. Correct.

Q. -- and later in the week, don't hold me to the particular date, but I think you said on the Thursday, on the 18th, you understood that it was now to be an Asset Purchase Agreement, that a lightbulb went on, and --

A. Uh-huh.

Q. Taking a look at Exhibit 1, which is entitled "Asset Purchase Agreement," I want to revisit that a little bit.

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A. Uh-huh.

Q. Did you understand it to be an Asset Purchase Agreement at the outset?

A. When you say "at the outset," we're buying Lehman Brothers. That transaction falls apart. Come in on Monday, it's kind of, you know, I'm thinking now we're just buying the broker-dealer, the piece that hadn't filed for bankruptcy. And then somewhere over the next day or two or three, I don't recall when, you know, I'm beginning to hear, we're not buying LBI, LBI is going to declare bankruptcy, we're going to take the employees and buy certain assets.

Q. Okay.

A. Okay?

Q. And you're going to buy --

A. And maybe some real estate I think at that time.

Q. So I want to go back to the Monday and the Tuesday. You have said several times you're not part of the deal team?

A. Uh-huh.

Q. Which I take it to mean is you're not

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involved in the negotiations of the business terms?

A. Correct.

Q. The Asset Purchase Agreement that we have marked as Exhibit 1 is dated as of --

A. The 16th.

Q. -- the 16th of September. That's the Tuesday.

Did you sign the agreement on the Tuesday?

A. I don't recall.

Q. Do you recall anything about the circumstances when you signed the agreement?

A. I don't recall.

Q. Okay. Do you remember if the signature page that you signed was attached to the agreement when you signed it?

A. I would think so because, like as a rule of thumb, I don't sign --

Q. Free-standing signature pages?

A. -- free-standing signature pages.

Q. And before the break I asked you, you know, with regard to the clarification letter if you read it before you signed it, and you told

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me your practice is to either read something and understand it before you sign it or, and I'm paraphrasing you, have somebody --

A. Take me through it.

Q. -- take you through it and make you understand what it is you're signing, yes?

A. Correct.

Q. Do you recall which of those two practices you followed with regard to signing the Asset Purchase Agreement dated September 16?

A. I probably would have had -- I can't say with certainty, but, you know what, as it relates to the Asset Purchase Agreement, had I read it, I would remember it. So it probably was a discussion with one of the lawyers on our deal team.

Q. By the Tuesday, the 16th, had anyone described to you the economic terms of the transaction?

A. No.

Q. Did you have an understanding as to whether there was a discount being applied to securities being purchased pursuant to the Asset Purchase Agreement?

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 A. No.</p> <p>3 Q. Did you have an understanding as to</p> <p>4 the total amount of securities that were being</p> <p>5 transferred from Lehman to Barclays under the</p> <p>6 first agreement you have there?</p> <p>7 A. No.</p> <p>8 Q. That is, Exhibit 1?</p> <p>9 A. No.</p> <p>10 Q. Did you have any knowledge of what the</p> <p>11 components of the price to be paid by Barclays</p> <p>12 were on September 16?</p> <p>13 A. No.</p> <p>14 Q. Did you ask anyone?</p> <p>15 A. No.</p> <p>16 Q. Would you take a look at the Transfer</p> <p>17 and Assumption Agreement. Now, that is -- it</p> <p>18 says in its first line was executed on September</p> <p>19 20, which would be the Saturday, right? And do</p> <p>20 you recall if you signed it on September 20?</p> <p>21 A. I don't recall when I signed it.</p> <p>22 Definitely my signature.</p> <p>23 Q. Okay. The last page appears to me as</p> <p>24 if it may be a fax --</p> <p>25 A. It looks like it was.</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Q. -- transmission as opposed to the</p> <p>3 pages that precede it. Compare that with the</p> <p>4 rest of the document. They don't have that line</p> <p>5 across the top and across the bottom, you see</p> <p>6 that?</p> <p>7 A. (Witness shrugs.)</p> <p>8 Q. Do you recall if you signed a</p> <p>9 signature page without the rest of the</p> <p>10 agreement?</p> <p>11 A. Just as a rule of thumb, I typically</p> <p>12 don't sign the signature pages.</p> <p>13 Q. If you take a look at the lower</p> <p>14 left-hand corner of the signature page, it's got</p> <p>15 a document number on there?</p> <p>16 A. Uh-huh.</p> <p>17 Q. It says -- the number's a little</p> <p>18 blurred, but it begins CHI --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- 4436673, Version 2, do you see</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 Q. Take a look at the two pages that</p> <p>24 precede it and look at the lower left-hand</p> <p>25 corner. You see that it says Washington, D.C.</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Number 397038, Version 3?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Does that suggest to you that the</p> <p>5 signature page was prepared on a different word</p> <p>6 processing system than the two pages that</p> <p>7 precede it?</p> <p>8 A. I don't know what it suggests, you</p> <p>9 know?</p> <p>10 Q. Okay.</p> <p>11 A. Would have never even noticed it had</p> <p>12 you not pointed it out to me.</p> <p>13 Q. And does it refresh your recollection</p> <p>14 one way or the other as to whether you signed --</p> <p>15 A. No.</p> <p>16 Q. -- a free-standing signature page for</p> <p>17 the Transfer and Assumption Agreement?</p> <p>18 A. No, it doesn't. It doesn't.</p> <p>19 Q. Do you know what the purpose of the</p> <p>20 Transfer and Assumption Agreement was?</p> <p>21 MR. STERN: I don't think he's asking</p> <p>22 you to read and interpret it today.</p> <p>23 Q. It's a yes or no.</p> <p>24 MR. STERN: Either you do or you don't</p> <p>25 from memory.</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 A. Yes, vaguely.</p> <p>3 Q. Okay.</p> <p>4 A. At a high level.</p> <p>5 Q. Give me your understanding of what the</p> <p>6 purpose of the Transfer and Assumption Agreement</p> <p>7 was.</p> <p>8 A. That there were some assets that were</p> <p>9 going to transfer -- some assets that Lehman</p> <p>10 held at one of the exchanges that were going to</p> <p>11 be moved over to Barclays.</p> <p>12 Q. And the exchange at issue here was the</p> <p>13 Options Clearing Corporation, OCC? Do you see</p> <p>14 the reference to it in the agreement?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And the "whereas" clauses of the</p> <p>17 agreement in the second one says, "Lehman</p> <p>18 maintains clearing fund and margin deposits with</p> <p>19 OCC," do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you have an understanding of what</p> <p>22 those two items were when you signed this?</p> <p>23 A. No.</p> <p>24 Q. Do you know if the transfer --</p> <p>25 A. I mean, I know what a clearing fund is</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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2 and I know what a margin deposit is, but I have
3 no idea what the value was at the time.

4 Q. Okay. That's a good point. Apart
5 from what it's worth, apart from the value, I
6 just want to know if you know its character,
7 what they are?

8 A. Yes.

9 Q. And do you know whether either of
10 those, a clearing fund or margin deposits, would
11 contain cash?

12 A. No idea.

13 Q. Do you know --

14 A. I'm sorry, let me answer. I don't
15 know what was contained in it.

16 Q. Uh-huh.

17 A. Most margin deposits or clearing fund
18 deposits could be cash or securities, okay?
19 Most firms use securities.

20 Q. Do you know -- did you know when you
21 signed this agreement whether the clearing fund
22 or margin deposits that it addresses contained
23 cash or securities?

24 A. No idea.

25 Q. If you could turn your attention to
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2 the clarification letter, which I think is
3 Exhibit 25. The clarification letter,
4 Mr. LaRocca, is dated as of September 20. You
5 see that on the face of the document?

6 A. Yes.

7 Q. And the closing took place on Monday,
8 September 22?

9 A. Correct.

10 Q. Do you remember when you signed the
11 clarification document, the clarification
12 letter?

13 A. No.

14 Q. Do you recall signing documents at the
15 actual closing on --

16 A. Monday morning, yes, I do.

17 Q. Do you recall approximately how many
18 documents you signed? I want to know if it was
19 a number greater than one.

20 A. Yes.

21 Q. Was it a dozen documents? One
22 document? Two documents. Any recollection?

23 A. (Witness gestures.)

24 Q. No, you don't know? You got to say it
25 out loud for the reporter.

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2 A. No, no recollection. It was more than
3 one.

4 Q. Did you have an understanding when you
5 signed the clarification letter what the purpose
6 of the clarification letter was?

7 MR. STERN: Objection to the form.

8 Do you want to repeat the question?

9 (Record read.)

10 A. I understand, you know, what the word
11 "clarification" means, right? So there
12 obviously had to be -- there was revisions to
13 some earlier agreements. Do I know the -- did
14 at the time or do I recall what the specific
15 points relative to the, you know, that had to be
16 clarified? No.

17 Q. When you say you understood what the
18 word "clarification" means, did you understand
19 the clarification letter to be clarifying terms
20 of the Asset Purchase Agreement?

21 MR. STERN: Objection to the form.

22 A. My -- I just -- the answer is I don't
23 know. I don't know the answer to that, right?
24 So the answer is no, not specifically to the
25 Asset Purchase Agreement.

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2 Q. Did you understand the clarification
3 letter to be --

4 A. I wasn't surprised by a clarification
5 letter given that there was ongoing dialogue
6 through the weekend, right? And specifically as
7 it related to the --

8 Q. To the repo?

9 A. -- the repo.

10 Q. Before you signed the clarification
11 letter, had you seen any drafts of the
12 clarification letter?

13 A. No.

14 Q. The first version of the clarification
15 letter that you saw was the one that you signed?

16 A. To the best of my knowledge, yes.

17 Q. Did you understand or were you given
18 to understand by someone else that the
19 clarification letter was an amendment as opposed
20 to a clarification?

21 MR. STERN: Objection to the form.

22 A. I'm not sure that I could
23 differentiate with your question.

24 Q. That's good point. One of the things
25 in front of you, although you didn't sign it, is

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 a document entitled First Amendment, you see</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. First Amendment to Asset Purchase</p> <p>6 Agreement. And do you have an understanding, in</p> <p>7 your view, is there a difference between an</p> <p>8 amendment to an agreement and a clarification</p> <p>9 letter, a clarification of the agreement?</p> <p>10 MR. STERN: Objection to the form.</p> <p>11 Q. I just want your view.</p> <p>12 A. No.</p> <p>13 Q. What was your understanding of how the</p> <p>14 clarification letter addressed the repo?</p> <p>15 A. Don't recall. Right? You know, my</p> <p>16 perception at the time, this was all very fluid</p> <p>17 and evolving over the week's time, right?</p> <p>18 People moving at -- things needing to happen</p> <p>19 very fast because the markets are melting down</p> <p>20 and -- and everyone wanting to effect a</p> <p>21 transaction to try to save jobs and a Lehman</p> <p>22 franchise and value for everybody, including</p> <p>23 the, you know, the piece that was going to go to</p> <p>24 the estate, right?</p> <p>25 Q. Also including the piece that was</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 going to go to Barclays, right?</p> <p>3 A. Yeah, absolutely.</p> <p>4 Q. Did you have an understanding that the</p> <p>5 clarification letter changed the definition of</p> <p>6 the assets that were going to be purchased when</p> <p>7 you signed the clarification letter?</p> <p>8 A. Not when I signed the clarification</p> <p>9 letter. Not at the time, okay? Subsequent, you</p> <p>10 know, we learned that the transaction as</p> <p>11 originally envisioned in the beginning of the</p> <p>12 week has changed a lot by the end of the week,</p> <p>13 right? Again, I can't give you specifics, but,</p> <p>14 you know, things you think you're buying that</p> <p>15 don't exist because the quality of the data or</p> <p>16 the uncertainty.</p> <p>17 Q. But there came a point where you</p> <p>18 understand that -- where you came to understand</p> <p>19 that the clarification letter changed what was</p> <p>20 purchased?</p> <p>21 A. Yes.</p> <p>22 Q. And that point came after, at some</p> <p>23 point after you signed the clarification letter?</p> <p>24 A. Yes.</p> <p>25 Q. Was the fact that the clarification</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 letter was changing what was going to be</p> <p>3 purchased explained to you at the time that you</p> <p>4 signed the clarification letter?</p> <p>5 Let me withdraw that. Let me ask a</p> <p>6 more general question. When you signed the</p> <p>7 clarification letter, did anybody explain to you</p> <p>8 what its purpose was in the transaction?</p> <p>9 A. At a high level that the terms of the</p> <p>10 transaction had changed.</p> <p>11 Q. Was it described to you in any greater</p> <p>12 detail than at that high level, that the terms</p> <p>13 of the transaction had changed?</p> <p>14 A. No, not that I can recall.</p> <p>15 Q. Now, could you turn to paragraph 13 of</p> <p>16 the -- actually, first, if you don't mind, turn,</p> <p>17 please, to paragraph 9.</p> <p>18 A. Of which agreement?</p> <p>19 Q. Of the clarification letter. Page 4.</p> <p>20 A. Did you say paragraph 9 or page 9?</p> <p>21 Q. It's paragraph 9 located on page 4 of</p> <p>22 the clarification letter. Take a minute and</p> <p>23 read through that paragraph 9 to yourself, if</p> <p>24 you don't mind.</p> <p>25 A. It's only one sentence.</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 Q. And it's entitled "Deletion of</p> <p>3 Purchase Price Adjustment Provisions" and it</p> <p>4 says, "Section 3.3 of the original agreement is</p> <p>5 hereby deleted in its entirety and shall be of</p> <p>6 no effect ab initio."</p> <p>7 A. No frame of reference at all.</p> <p>8 Q. Did you have a frame of reference when</p> <p>9 you signed the agreement for paragraph 9?</p> <p>10 A. No.</p> <p>11 Q. And would you take a look at paragraph</p> <p>12 12, which is on page 5 of the agreement. And</p> <p>13 I'll read that into the record: It's entitled</p> <p>14 "Schedule 12.3," underscored, and it says,</p> <p>15 "Following the closing, the parties shall</p> <p>16 reasonably agree to an allocation of the</p> <p>17 purchase price (including the assumed</p> <p>18 liabilities) among the purchased assets for tax</p> <p>19 purposes and set forth such allocation on a</p> <p>20 Schedule 12.3 to be signed by the parties." Do</p> <p>21 you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know whether any such schedule</p> <p>24 has ever been prepared?</p> <p>25 A. I have no idea.</p> <p> TSG Reporting - Worldwide (877) 702-9580</p>

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2 Q. And would you take a look now at the
3 paragraph that follows, paragraph 13. I'm not
4 going to read it into the record because it's
5 too long, but read through it yourself and let
6 me know when you've had a chance to do that.

7 (Document review.)

8 A. Okay. I've read it.

9 Q. Now, when you signed the clarification
10 letter, did you have an understanding of the
11 purpose of paragraph 13?

12 A. Don't recall.

13 Q. When you signed the clarification
14 letter, had you seen a copy of the Notice of
15 Termination that's referred to in the last
16 sentence of paragraph 13?

17 A. I don't believe so.

18 Q. Did you have an understanding that a
19 Notice of Termination relating to the Barclays
20 Repurchase Agreement had been issued?

21 A. No. I had an understanding that the
22 repo would terminate, but didn't know if the
23 notice -- didn't understand the formal process
24 of how that takes place.

25 Q. Did you have an understanding as to
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2 whether paragraph 13 was meant to address the
3 bankruptcy implications we talked about before
4 when there's a default on a repo and a
5 bankruptcy is involved?

6 A. No.

7 Q. No, you did not?

8 A. No, I did not.

9 Q. Do you recall if anyone explained to
10 you, even if you don't remember the content of
11 it -- actually, just answer this yes or no: Do
12 you recall whether anyone explained to you the
13 implications under the Bankruptcy Code of
14 paragraph 13?

15 A. "No" to your question.

16 Q. Okay. We talked before about getting
17 an explanation of the implications of the
18 Bankruptcy Code for the termination of the repo?

19 A. Yes.

20 Q. Yours is a good point. Specifically
21 with respect to paragraph 13, did you get that
22 kind of explanation?

23 A. No.

24 Q. I'm putting before you, Mr. LaRocca, a
25 document that was previously marked as Exhibit
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2 27, and I'll ask you, sir, if you've seen that
3 document -- actually, this is the Notice of
4 Termination referred to and you told me you
5 didn't remember if you saw it.

6 Does this refresh your recollection?

7 A. No, not at all.

8 Q. Do you know the Michael Montgomery who
9 signed this?

10 A. Yes. Yes.

11 Q. Who is Michael Montgomery?

12 A. Michael Montgomery is a director with
13 Barclays Capital. He was formerly the CFO of
14 Barclays Capital of the Americas, and because of
15 his previous role, he was on the board of
16 Barclays Capital, Inc., still remains on the
17 board of Barclays Capital, Inc., and is why he's
18 a signator.

19 But at the time of this transaction,
20 Mike's role would have been to be the BarCap
21 person on the ground responsible for overseeing
22 our investments in Homeq and Equifirst.

23 Q. Did the investments in Homeq or
24 Equifirst have any relation to the --

25 A. None whatsoever.

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2 Q. Let me put the whole question so we
3 have a clear question and answer.

4 Do the investments in Homeq or
5 Equifirst have any relation to the Repurchase
6 Agreement we have talked about?

7 A. None whatsoever.

8 Q. Do you have any knowledge as to why it
9 would be Michael Montgomery signing this other
10 than the fact that he holds that title?

11 A. No, I presume it's only because they
12 were looking for a signator.

13 Q. Do you know who's the "they"?

14 A. Alan Kaplan. It probably would have
15 been Alan Kaplan or someone within Barclays
16 Capital Legal was looking for a BCI signator.

17 Q. Without regard to the documents, and
18 I'll go back to them in a minute, but without
19 regard to the documents, was there a point in
20 the time sequence from the morning of the 19th
21 through to the closing on the 22nd where the
22 fact that a Notice of Termination of the repo
23 had been sent came to your attention?

24 A. No.

25 Q. Was the fact of a Notice of

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Termination being sent a topic of any conversation in which you were involved at any time?

A. No, not that I'm aware of. Not that I recall.

Q. When you signed the agreement, did you have any understanding of why the Notice of Termination needed to be rescinded and void ab initio in all respects?

A. I didn't sign the agreement.

Q. I'm in the clarification letter at paragraph 13 again.

A. No.

Q. Over the weekend of the 20th and the 21st and through the closing on the morning of the 22nd, that's the time I'm talking about now, during that period did you have discussions with anyone as to whether the terms of the clarification letter had been approved by the bankruptcy court?

A. No.

Q. With respect to both the Asset Purchase Agreement, the one dated the 16th, the Tuesday, and the clarification letter, dated as
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of the 20th, did you have an understanding, sir, of the amount -- did you have an understanding that Barclays would be assuming certain liabilities as part of its consideration in the deal?

MR. STERN: Objection to the form.

A. Could you rephrase the question?

Q. As part of the transaction, did you understand Barclays would be assuming liabilities?

A. Yes.

Q. What liabilities did you understand Barclays would be assuming?

A. I don't have a detailed understanding or I don't recall being privy to, you know, a detailed listing of all the liabilities that Barclays would assume, right? As a result of being in the area, right, you know, there was going to be severance packages that would need to be paid to Lehman employees, there would be compensation that would need to be paid to Lehman employees that we would retain, right? There would be cure payments that would have to go to third parties. You know, that's, you
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know, I couldn't tell you the amounts associated with those, but knew that Barclays was going to assume some liabilities.

Q. But beyond knowing the fact of an assumption of liabilities, you did not know the amounts, correct?

A. No, wouldn't have been privy to it, wouldn't have been involved in that aspect of it.

Q. If you could go back to Exhibit 1, sir, the Asset Purchase Agreement, and turn, please, to page 35.

A. Did you say page 35?

Q. Yes, sir. And the paragraph I'm talking about is paragraph 9.1(C), which is at the top of page 35. If you could read through that just sufficiently to tell us whether you've seen or focused on that language before?

A. No.

Q. Do you see that it refers to a -- actually, let me read the portion I'm interested in. In paragraph 9.1(C) it refers to a financial schedule delivered to purchaser on September 16, 2008, and initialed by an officer
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of each of Holdings and purchaser. You see that?

A. Yes.

Q. Did you ever see that schedule?

A. No.

Q. Let me show you what's previously been marked as Deposition Exhibit 19 and ask you if you've ever seen that document before?

A. No, I have not.

Q. Down the asset side of that financial schedule are certain classes of collateral and numbers attributed to those assets, correct?

A. Uh-huh.

Q. When you were around -- you and I both have used different phrases to this today. When you were around and picked up the buzz of what was going on or you were nearby to what was going on, did you come to any understanding as to whether those amounts were negotiated with between Barclays and Lehman?

A. No, I -- no idea at all.

Q. Did you ever --

A. Being around, I had a high level. I knew that the size of the transaction had

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 shrunk.</p> <p>3 Q. Okay.</p> <p>4 A. Other than that ...</p> <p>5 Q. When you say "the size," you're</p> <p>6 talking about over the week?</p> <p>7 A. Over the week.</p> <p>8 Q. From the Tuesday to the Friday, right?</p> <p>9 A. Yeah.</p> <p>10 Q. Did you have any understanding as to</p> <p>11 whether the price that Barclays paid for those</p> <p>12 asset classes constituted a contract price that</p> <p>13 was different from the amounts shown on Lehman's</p> <p>14 books for those asset classes?</p> <p>15 A. No idea at all.</p> <p>16 Q. Did you have any understanding that</p> <p>17 the \$2.0 billion number attributed to comp on</p> <p>18 the liability side was also a negotiated amount?</p> <p>19 A. No, I did not.</p> <p>20 Q. Why were you the guy to sign these</p> <p>21 agreements?</p> <p>22 A. I'm the signator for Barclays Capital,</p> <p>23 Inc.</p> <p>24 Q. Is Rich Ricci a signator for Barclays</p> <p>25 Capital, Inc.?</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 A. I don't know the answer to that.</p> <p>3 Q. What about Bob Diamond, is he a</p> <p>4 signatory for Barclays Capital, Inc.?</p> <p>5 A. I don't believe so. I don't know what</p> <p>6 his role as chief executive of Barclays Capital.</p> <p>7 I presume that entitles him to -- maybe, I don't</p> <p>8 know, I don't know if that entitles him to sign</p> <p>9 any document in the firm, but he's, you know,</p> <p>10 he's not an officer of Barclays Capital, Inc.</p> <p>11 nor on the board of BCI, right, the U.S.</p> <p>12 broker-dealer.</p> <p>13 Q. Okay. You see why I'm asking. Are</p> <p>14 there other officers around who could have</p> <p>15 signed instead of you?</p> <p>16 A. I'm the chief executive of the U.S.</p> <p>17 broker-dealer, so I'm the likely -- Mike</p> <p>18 Montgomery, obviously he's an officer of BCI. I</p> <p>19 didn't even realize he was in New York that</p> <p>20 week. Maybe he was, maybe he wasn't.</p> <p>21 Q. He might not have been. Washington</p> <p>22 and Chicago are at the bottom of the document.</p> <p>23 A. Okay.</p> <p>24 (Exhibit 208, a document bearing Bates</p> <p>25 Nos. BCI 006119 through 6646, marked for</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 identification, as of this date.)</p> <p>3 Q. What I need you to look through on</p> <p>4 Exhibit 208 -- well, look through the document</p> <p>5 enough to tell me whether you've seen it before,</p> <p>6 but in particular, Mr. LaRocca, I'm going to</p> <p>7 have questions for you about the first couple of</p> <p>8 pages running from BCI-00619 through 6121.</p> <p>9 A. I'm sorry, can you repeat that?</p> <p>10 Q. The first few -- Bates Nos. BCI000619,</p> <p>11 which is the first page of the document, through</p> <p>12 6121, which is the third page of the document,</p> <p>13 front and back. And you'll see that the cover</p> <p>14 is an e-mail from Robert Azerad at Lehman --</p> <p>15 A. Yes.</p> <p>16 Q. -- to you, entitled "Detailed</p> <p>17 information about the 1.9 billion of</p> <p>18 unencumbered collateral."</p> <p>19 Do you recall receiving this document?</p> <p>20 A. No.</p> <p>21 Q. We talked a little earlier about what</p> <p>22 you would do if you got a document with a</p> <p>23 schedule like this.</p> <p>24 A. A lot of the Lehman guys -- I was in</p> <p>25 Ops. I explained my role in terms of trying to</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA</p> <p>2 be helpful. And a lot of the Lehman employees,</p> <p>3 maybe they presumed I was part of the deal team</p> <p>4 and trying to give me docs and information and</p> <p>5 the -- you know, this document, I don't even</p> <p>6 recall what I would have done with it.</p> <p>7 Q. Okay.</p> <p>8 A. Actually, if I look below, it looks</p> <p>9 like it was sent to Rich Ricci below me, right,</p> <p>10 and then subsequently shared with me. I</p> <p>11 wouldn't have done a -- I might have filed it</p> <p>12 under G.</p> <p>13 Q. Okay.</p> <p>14 A. You know what G stands for?</p> <p>15 Q. The e-mail at the bottom is from</p> <p>16 Azerad to Ricci?</p> <p>17 A. Yeah.</p> <p>18 Q. And then there's some CCs, Tonucci,</p> <p>19 Lowitt and Kelly?</p> <p>20 A. Those are all Lehman employees.</p> <p>21 Q. And then the top is Azerad himself.</p> <p>22 This isn't being forwarded by Ricci to you.</p> <p>23 This is from Azerad.</p> <p>24 A. I'm saying I would have seen that it</p> <p>25 was sent to Rich.</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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Q. And therefore, you don't have to do anything with it; it's where it needs to be?

A. I don't know why it was being sent to Rich or why it's not being sent to Rich. Rich wouldn't know what to do with a document like this.

Q. Do you have an understanding of what's meant by "1.9 billion of unencumbered collateral"?

A. I understand what the term "unencumbered" means, right? Which means -- right?

Q. I'm asking a slightly more specific question. In the context of the deal, was there an issue --

A. No.

Q. -- concerning 1.9 billion of unencumbered collateral that you know about?

A. Not that I knew about.

I can tell you --

Q. What did you want to tell me about the document?

A. What I was going to do would be critical of the document in terms of, since

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Lehman hadn't been able to settle trades, reconcile its positions in bank accounts for several days, I don't think they would be in a position to definitively know what was in the box, let alone whether it was unencumbered or not.

Q. That's based on your impression going back to even the week before --

A. Absolutely.

Q. -- about the state of the records?

A. The state of recordkeeping was horrific.

Q. Beyond that impression, based on an overall view of the state of their recordkeeping, do you have any knowledge about whether Lehman could accurately describe 1.9 billion as unencumbered, about 1.9 billion?

A. I'm sorry, could you just repeat? Do I have an impression?

Q. Let me rephrase the question.

MR. STERN: He's asking if you know.

Q. Your answer to me has been based on your overall impression of Lehman's recordkeeping. My question is more specific

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now. Do you know one way or the other whether the description of 1.9 billion in unencumbered assets in that exhibit is accurate or not?

A. I do not know.

Q. Could you go back to the clarification letter, please, Exhibit 25, and I would direct your attention to the first page of it, paragraph 1, entitled "Purchased Assets; Excluded Assets," and in particular, paragraph 1(A)(ii), which begins "with respect to causes (a), (d) and (e)."

A. I'm sorry.

Q. It's that paragraph there, Roman numeral ii.

(Document review.)

Q. Okay. Have you had a chance to read that through?

A. Uh-huh.

Q. Section capital A of that paragraph refers to "the securities owned by LBI and transferred to purchaser or its affiliates under the Barclays Repurchase Agreement (as defined below) as specified on Schedule A previously delivered by seller and accepted by purchaser."

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Do you see that piece?

A. Yes.

Q. At the time you signed the clarification letter, had you seen that Schedule A to which that portion refers?

A. I don't recall. I don't recall.

Q. In the next section it refers to, "Such securities and other assets held in LBI's 'clearance boxes' as of the time of the Closing, which at the close of business on September 21, 2008 were as specified on Schedule B previously delivered by seller and accepted by purchaser."

A. I don't recall receiving that.

Q. Schedule B?

A. Yes.

Q. And if you would turn to page 2 and go to section capital C within that paragraph, which says, "Exchange-traded derivatives (and any property that may be held to secure obligations under such derivatives) and collateralized short-term agreements."

Do you have an understanding of what that was describing?

A. No.

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asked you about?

A. Uh-huh.

Q. And I think you testified that you never saw Schedule B?

A. I don't recall.

Q. Do you have any idea who at Barclays would have been responsible for preparing Schedule B?

MR. STERN: Barclays?

I'm going to object to the form.

You're suggesting Barclays prepared Schedule B?

MR. WOOD: I'll clarify that.

Q. Do you know who at Barclays would have been involved in reviewing Schedule B?

A. No idea.

MR. STERN: Objection to the form.

Q. I'm handing you what's already been marked as Exhibit 52, which is a letter dated September 22, 2008.

And for the record, at the top on the letterhead it says the Depository Trust & Clearing Corporation. So I'll probably just refer to this as the DTCC letter.

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MR. STERN: Well, take a look at it.

MR. WOOD: Yeah, take your time.

MR. STERN: Take time to review it.
(Document review.)

Q. Ready?

A. Yes.

Q. If you look at the last page, is that your signature on the document?

A. Yes, it is.

Q. Do you remember signing it?

A. Do I remember signing this document?

No. No.

Q. It's dated September 22?

A. Yeah.

Q. Do you have any recollection of whether this was among the group of documents that you signed that day?

A. I have a recollection of a payment needing to be made to DTCC as part of the agreement with the, you know, and the \$250 million wire transfer seems to resonate with me. I remember at the closing there was a payment that had to be made to DTC. That's my recollection.

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Q. Do you recall whether you read the document before you signed it?

A. Don't recall if I read the document, but as I indicated, I do recall that, as part of the agreement of the -- as part of our acquisition, there needed to be a payment made to DTC.

Q. Do you remember who told that you?

A. Might have been our in-house counsel, but not certain.

Q. Do you recall whether anybody explained to you the terms of this letter before you signed it?

A. I'm fairly certain our internal legal team would have explained this letter to me.

Q. Do you recall when you first learned of the need to have a DTCC letter, as I'm referring to it?

MR. STERN: Objection to the form.

A. Don't recall specifically when. I don't recall.

Q. If you'll look at page 2 of this letter, near the top of the page you'll see number 1, "Winding Down of Accounts"?

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A. Yeah.

Q. And the first sentence there says, "Barclays has indicated and hereby agrees that all of the accounts of LBI maintained at the clearing agency's subsidiaries (the accounts) constitute 'excluded assets' within the meaning of the APA."

MR. STERN: Is there a question?

MR. WOOD: I thought the witness was reading, so I wanted to pause to give him a moment to read it.

(Document review.)

A. Yes.

Q. Do you recall that language?

A. No.

Q. As you sit here today what is your understanding of that?

MR. STERN: Objection to the form.

A. I'm not really sure.

Q. Do you recall whether you were on a telephone call with anyone from DTC on Sunday night, September 21st?

A. I don't recall being on a telephone call with DTC on a Sunday.

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Q. And just in case this refreshes your recollection, our understanding is there was a telephone call involving Isaac Montel of DTC. Does that ring a bell?

MR. STERN: Objection to the form.

A. Yes, it actually does ring a bell.

Q. Just to be clear, the -- you remember the call or just remember the name of the individual?

A. I remember a call with DTCC that weekend, couldn't tell you if it was Saturday or Sunday, with seemed like -- I seem to recall that Isaac Montel was on the call.

Q. Do you recall participating in the call? By that I mean speaking?

A. No. No, I don't think I spoke.

Q. Do you remember what the purpose of the call was?

A. I believe DTC wanted Barclays to step into Lehman's obligations at the Depository.

Q. And what do you mean by "step into the obligations"?

A. Assume, assume the obligations of Lehman Brothers.

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Q. And do you remember whether anyone from Barclays said whether or not Barclays would do so?

A. I think we were all apprehensive about stepping into Lehman obligations and all the uncertainty associated with it.

Q. Do you remember whether anybody from DTC expressed any apprehensions?

MR. STERN: Objection to the form.

A. About?

Q. About the arrangement.

MR. STERN: Objection to the form.

A. Don't recall.

Q. Do you recall any discussion about whether residential mortgage securities would be included in the assets that would be given to DTC?

A. Vaguely.

Q. I'll ask a different question.

A. Vaguely. Yes.

Q. Do you remember whether on that call that we're discussing, whether anyone from DTC expressed concern that residential mortgage securities would not be included among the

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securities they would have access to?

A. Just don't recall.

Q. Again, looking at this Exhibit 52, which is on the letterhead of the Depository Trust & Clearing Corporation, do you know who drafted that letter?

A. No idea. No idea.

(Exhibit 212, an e-mail string, the first one in time from N. Reyda to ITD War Room, dated September 19, 2008, marked for identification, as of this date.)

Q. Take a moment to read that over. (Document review.)

(Exhibit 213, an e-mail string, the first in time from G. LaRocca to A. Blackwell, dated September 20, 2008, marked for identification, as of this date.)

Q. And I'm actually going to ask you first about number 213. The reason I want to make sure you had 212 is you'll see at the bottom of 213 it says "original message truncated," so 212 gives you some context.

A. 213 is in front of me. I've read it.

Q. So I'm looking at 213. The second

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message from the top is the one that you wrote on September 20th at 9:07 P.M.?

A. Yes, I remember this.

Q. Subject is "The Conversion," and you write, "Deal team wants to see Lehman produce some credible books and records which will provide valuable information about Lehman's inventory which remain in the box on Friday and also the securities/assets that Lehman's believed to have been seized," and then four question marks.

MR. STERN: Do you know where he is?

THE WITNESS: I do now. I was starting below.

Q. Take a second to read it.

A. Okay.

Q. What are the assets Lehman believed to have been seized?

A. I don't know the answer to that question. At this point in time, I remember these two e-mails very clearly, right? The Lehman team making representations that there were assets, right, but producing no credible evidence, right, you know, and me telling them,

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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA 2 MR. STERN: Objection to the form. 3 A. No. 4 Q. You said earlier that -- and this 5 won't be your exact words, so correct me if this 6 is not your recollection -- that Lehman Brothers 7 believed there was an excess of assets beyond 8 the 15c3 requirement; does that sound correct? 9 A. Lehman believed that the last time 10 they did the 15c3 calculation there was an 11 excess collateral over and above the 12 requirement. 13 Q. Do you remember how you learned that? 14 A. Lehman employees would have told me 15 that there was excess collateral in the 15c3 16 account. 17 Q. Do you recall who told you that? 18 A. Could have been one of -- one or all 19 of three employees: Maybe Ian Lowitt, Paolo 20 Tonucci and Robert Azerad. And my reaction was: 21 When was the last time you did a calculation? 22 And it hadn't been done in a while because 23 they -- 24 Q. And do you recall -- 25 MR. STERN: "Because they"? I don't TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA 2 think you finished your answer. "Because 3 they"? 4 MR. WOOD: Oh, I'm sorry. 5 A. Because they didn't have systems. 6 JPMorgan had turned the systems off. They 7 didn't know the status of their trades. They 8 hadn't been able to reconcile bank accounts. 9 They hadn't been able to reconcile the stock 10 record. 11 So I found the information that was 12 conveyed to be not credible. There was a 13 problem with everything that we got from Lehman 14 during that week. The data was not credible. 15 Q. When you said the calculation hadn't 16 been done in a while, do you recall how long it 17 had been since the calculation had been done? 18 A. No. At least a week. 19 Q. Do you recall when you first learned 20 that excess assets beyond the 15c3-3 requirement 21 might be transferred to Barclays? 22 MR. STERN: Objection to the form. 23 A. Probably after the close. You know, 24 after the closing. I didn't know it was part of 25 the deal at the time. TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA 2 Q. If you can take a look at Exhibit 212, 3 which is the one I handed you earlier but didn't 4 ask you any questions about, if you look at the 5 second page, your e-mail of September 20th in 6 the evening, you write, "I would pursue 7 calculating a more updated requirement and 8 excess." 9 A. Uh-huh. 10 Q. Why did you want to know the excess? 11 Actually, let me ask -- I'm sorry, let me 12 rephrase. Why did you want to know the 13 requirement? 14 A. Lehman indicated that there were 15 unencumbered assets in their 15c3 and excess. 16 If you go to the below that where they say "do 17 you know" -- they wanted me to call someone at 18 Wells Fargo and ask them to see if I knew 19 someone at Wells Fargo and can I get Wells Fargo 20 to release the money. 21 My response to them was: One is I 22 don't know anyone at Wells Fargo; two, they're 23 not going to release money based upon a phone 24 call. They're going to need demonstrative 25 evidence, right? So that's what I'm asking the TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 HIGHLY CONFIDENTIAL - G. LaROCCA 2 team to produce. Do a calculation. Do a -- do 3 a rec. The deal team will need it. Lawyers 4 will need it. 5 If there are assets that belonged to 6 Lehman that need to be freed up, you need to 7 have demonstrable evidence, and they weren't 8 able to produce it. 9 Q. Was it your understanding at that 10 time, meaning September 20th, that under the 11 deal that was being negotiated, the excess would 12 go to Barclays? 13 A. I didn't know. I wasn't part of the, 14 you know, the deal team. What I do recall 15 telling Rich and where the conversations are 16 going on that you need to be very careful 17 because my experience in dealing with the Lehman 18 team at the time was that nothing, no 19 information they gave us was credible. 20 So I do recall that, you know, and 21 aware that, you know, that some of the deals 22 guys are having conversations with the Lehman 23 people working on the deal, and I would just be 24 very careful because the books and records and 25 what Lehman thought they had and what they TSG Reporting - Worldwide (877) 702-9580</p>